

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTIETH DAY — FRIDAY, MAY 6, 2011

The house met at 9:30 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 789).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Bohac.

The invocation was offered by Micah Davidson, pastor, Real Life Fellowship, Austin.

The speaker recognized Representative Murphy who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of family business:

Bohac on motion of Madden.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Murphy and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Farrar on motion of Burnam.

The following members were granted leaves of absence temporarily for today because of important business in the district:

Hernandez Luna on motion of Walle.

Huberty on motion of Schwertner.

**HR 1660 - ADOPTED
(by Straus)**

Representative Larson moved to suspend all necessary rules to take up and consider at this time **HR 1660**.

The motion prevailed.

The following resolution was laid before the house:

HR 1660, Expressing the importance of pedestrian safety and driver awareness and welcoming the American Council of the Blind to the Capitol.

HR 1660 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Larson who introduced representatives of the American Council of the Blind.

**PROCLAMATION BY THE GOVERNOR
OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamation by the governor:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, Rick Perry, governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation relating to the reform of civil remedies and
procedures in the State of Texas.

Respectfully submitted,
Rick Perry
Governor of Texas

Austin, Texas
May 5, 2011

(L. Taylor in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 22).

**HR 1756 - ADOPTED
(by Nash)**

Representative Nash moved to suspend all necessary rules to take up and consider at this time **HR 1756**.

The motion prevailed.

The following resolution was laid before the house:

HR 1756, In memory of U.S. Marine Staff Sergeant Jeremy D. Smith of Arlington.

HR 1756 was read and was unanimously adopted by a rising vote.

On motion of Representative Sheets, the names of all the members of the house were added to **HR 1756** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Nash who introduced family members of U.S. Marine Staff Sergeant Jeremy D. Smith.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Hopson on motion of J. Davis.

The following member was granted leave of absence temporarily for today because of important business:

Castro on motion of Anchia.

**HR 1681 - ADOPTED
(by Gonzalez and Marquez)**

Representative Gonzalez moved to suspend all necessary rules to take up and consider at this time **HR 1681**.

The motion prevailed.

The following resolution was laid before the house:

HR 1681, Honoring Maria Luisa "Tita" Yanar of El Paso for her contributions as an educator and civic leader.

HR 1681 was adopted.

HR 1764 - ADOPTED
(by Gonzalez)

Representative Gonzalez moved to suspend all necessary rules to take up and consider at this time **HR 1764**.

The motion prevailed.

The following resolution was laid before the house:

HR 1764, Commemorating the 2011 El Paso Holocaust Museum and Study Center Yom HaShoah and honoring El Paso Holocaust survivors.

HR 1764 was adopted.

HR 1324 - ADOPTED
(by Scott)

Representative Scott moved to suspend all necessary rules to take up and consider at this time **HR 1324**.

The motion prevailed.

The following resolution was laid before the house:

HR 1324, Affirming the importance of folic acid in the diets of women of childbearing age.

HR 1324 was adopted.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Cook requested permission for the Committee on State Affairs to meet while the house is in session, at 3 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State Affairs, 3 p.m. today, 3W.15, for a formal meeting, to consider pending business.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Garza on motion of Aliseda.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 11:15 a.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 11:15 a.m. today, 3W.9, for a formal meeting, to consider pending business.

FIVE-DAY POSTING RULE SUSPENDED

Representative Truitt moved to suspend the five-day posting rule to allow the Committee on Pensions, Investments, and Financial Services to consider **SB 29, SB 155, SB 579, SB 1319, and SB 1810** at 8 a.m. Tuesday, May 10 in E2.014.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions, Investments, and Financial Services, 8 a.m. Tuesday, May 10, E2.014, for a public hearing, to consider **SB 29, SB 155, SB 579, SB 1319, and SB 1810**.

FIVE-DAY POSTING RULE SUSPENDED

Representative J. Davis moved to suspend the five-day posting rule to allow the Committee on Economic and Small Business Development to consider **SB 1714** at 9 a.m. Tuesday, May 10 in E1.010.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Economic and Small Business Development, 9 a.m. Tuesday, May 10, E1.010, for a public hearing, to consider **SB 1714**.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Flynn on motion of Zedler.

(Speaker in the chair)

**HB 1 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS**

Representative Pitts called up with senate amendments for consideration at this time,

HB 1, General Appropriations Bill.

Representative Pitts moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1**.

The motion prevailed by (Record 790): 103 Yeas, 18 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Chisum; Christian; Cook; Crownover; Darby; Davis, J.; Davis, S.; Driver; Dutton; Eissler; Elkins; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hochberg; Howard, C.; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Martinez; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Davis, Y.; Deshotel; Eiland; Farias; Gonzales, V.; Gonzalez; Howard, D.; King, T.; Lucio; Mallory Caraway; Naishtat; Quintanilla; Strama; Walle.

Present, not voting — Mr. Speaker(C); Creighton.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Craddick; Dukes; Gutierrez; Hartnett; Hilderbran; Johnson; Keffer; Lozano; Marquez; Martinez Fischer; McClendon; Miles; Oliveira; Pickett; Reynolds; Veasey; Villarreal.

STATEMENTS OF VOTE

When Record No. 790 was taken, my vote failed to register. I would have voted yes.

Craddick

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Hartnett

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted no.

Reynolds

When Record No. 790 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today because of important business:

Anchia on motion of Y. Davis.

Marquez on motion of Gonzalez.

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative S. Miller moved to instruct the Conference Committee on **HB 1** to include in the conference committee report no more than the amount of funding for Strategy B.1.3 on page II-46 of the bill pattern for Department of State Health Services outlined in the engrossed version of **CSHB 1** from the house and to adhere to the reallocation of family planning funds in Amendment Nos. 44, 45, 46, 49, 50, 54, 55, 56, 57, 172, and 173 passed by the house.

The motion to instruct the conferees prevailed by (Record 791): 86 Yeas, 39 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Quintanilla; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Davis, S.; Deshotel; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Harless; Hartnett; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Martinez;

Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Raymond; Reynolds; Rodriguez; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty; Marquez.

Absent — Anderson, R.; Callegari; Coleman; Davis, Y.; Dukes; Dutton; Guillen; Gutierrez; Hilderbran; Kuempel; McClendon; Miles; Pitts; Price.

STATEMENTS OF VOTE

When Record No. 791 was taken, I was in the house but away from my desk. I would have voted no.

Dukes

When Record No. 791 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

When Record No. 791 was taken, I was in the house but away from my desk. I would have voted yes.

Kuempel

When Record No. 791 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

I was shown voting no on Record No. 791. I intended to vote yes.

Truitt

I was shown voting yes on Record No. 791. I intended to vote no.

Zerwas

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative P. King moved to instruct the Conference Committee on **HB 1** to exclude any language expending funds from the economic stabilization fund from the conference committee report on **HB 1**.

(Anchia now present)

The motion to instruct the Conference Committee on **HB 1** prevailed by (Record 792): 74 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Driver; Eissler; Elkins; Fletcher; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Madden; Miller, D.; Miller, S.;

Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Davis, J.; Davis, Y.; Deshotel; Eiland; Farias; Frullo; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Hamilton; Hartnett; Hochberg; Howard, D.; Johnson; King, T.; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Martinez; Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Shelton; Smith, T.; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty; Marquez.

Absent — Cain; Callegari; Carter; Coleman; Dukes; Dutton; Gutierrez; Hilderbran; McClendon; Miles; Peña; Pitts.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 792. I intended to vote no.

Brown

When Record No. 792 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

When Record No. 792 was taken, I was in the house but away from my desk. I would have voted no.

Dukes

I was shown voting no on Record No. 792. I intended to vote yes.

Frullo

I was shown voting yes on Record No. 792. I intended to vote no.

Harless

I was shown voting no on Record No. 792. I intended to vote yes.

Legler

When Record No. 792 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

I was shown voting yes on Record No. 792. I intended to vote no.

Patrick

When Record No. 792 was taken, my vote failed to register. I would have voted yes.

Pitts

I was shown voting no on Record No. 792. I intended to vote yes.

Shelton

I was shown voting yes on Record No. 792. I intended to vote no.

Truitt

(Marquez now present)

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative P. King moved to instruct the Conference Committee on **HB 1** to include in the conference committee report on **HB 1** language from Article IX, Sec. 18.09. Fee Revenue Increases Contingent on Legislation (House Floor Amendment No. 244) without change to the substance of that section.

The motion to instruct the conferees prevailed by (Record 793): 89 Yeas, 37 Nays, 3 Present, not voting.

Yeas — Allen; Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Davis, Y.; Deshotel; Driver; Eissler; Frullo; Geren; Giddings; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Weber; White; Woolley; Workman; Zedler.

Nays — Alonzo; Alvarado; Anchia; Burnam; Davis, J.; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Gutierrez; Hartnett; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Patrick; Pickett; Quintanilla; Reynolds; Rodriguez; Strama; Thompson; Veasey; Villarreal; Vo; Walle; Zerwas.

Present, not voting — Mr. Speaker(C); Aycock; Pitts.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aliseda; Callegari; Coleman; Dukes; Elkins; Fletcher; Guillen; King, T.; Lucio; McClendon; Miles; Miller, S.; Raymond.

STATEMENTS OF VOTE

When Record No. 793 was taken, I was in the house but away from my desk. I would have voted no.

Dukes

When Record No. 793 was taken, I was consulting with the director of the Texas Department of Public Safety. I would have voted yes.

Fletcher

When Record No. 793 was taken, I was temporarily out of the house chamber. I would have voted no.

McClendon

I was shown voting no on Record No. 793. I intended to vote yes.

Patrick

When Record No. 793 was taken, I was in the house but away from my desk. I would have voted no.

Raymond

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative P. King moved to instruct the Conference Committee on **HB 1** to include in the conference committee report on **HB 1** language from Article IX, Sec. 3.13. Hiring Freeze, House Engrossed Version (House Floor Amendment Nos. 228, 229, and 230) without change to the substance of that section.

The motion to instruct the conferees was lost by (Record 794): 45 Yeas, 84 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Berman; Bonnen; Burkett; Carter; Chisum; Christian; Eissler; Gonzales, L.; Harper-Brown; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Keffer; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Morrison; Murphy; Otto; Parker; Paxton; Peña; Perry; Phillips; Price; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smithee; Taylor, V.; Torres; Weber; White; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Aycock; Beck; Burnam; Button; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dutton; Eiland; Elkins; Farias; Frullo; Gallego; Geren; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hochberg; Howard, D.; Jackson; Johnson; King, S.; King, T.; Kuempel; Larson; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miller, D.; Muñoz; Naishtat; Nash; Oliveira; Orr; Patrick; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Sheffield; Smith, W.; Solomons; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aliseda; Branch; Brown; Cain; Callegari; Coleman; Dukes; Fletcher; McClendon; Miles; Miller, S.; Taylor, L.

STATEMENTS OF VOTE

When Record No. 794 was taken, my vote failed to register. I would have voted no.

Brown

When Record No. 794 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

When Record No. 794 was taken, my vote failed to register. I would have voted no.

Dukes

When Record No. 794 was taken, I was consulting with the director of the Texas Department of Public Safety. I would have voted yes.

Fletcher

When Record No. 794 was taken, my vote failed to register. I would have voted no.

McClendon

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Martinez moved to instruct the Conference Committee on **HB 1** to fully fund public education under the current formulas and to prioritize funding for grant programs such as the teacher incentive pay grants.

The motion to instruct conferees was lost by (Record 795): 45 Yeas, 86 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Davis, Y.; Deshotel; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Carter; Hilderbran.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Dukes; Harper-Brown; McClendon; Miles; Miller, S.; Simpson.

STATEMENTS OF VOTE

When Record No. 795 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 795 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Gallego moved to instruct the Conference Committee on **HB 1** to fully fund public education under the current formulas and to fund school districts for property tax value losses.

The motion to instruct conferees was lost by (Record 796): 50 Yeas, 80 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Branch; Burnam; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Peña; Perry; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Frullo; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Otto; Parker; Patrick; Paxton; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Geren.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Carter; Coleman; Davis, Y.; Jackson; King, S.; Miles; Miller, S.; Orr; Phillips.

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Walle moved to instruct the Conference Committee on **HB 1** to fully fund public education under the current formulas, including enrollment growth, and to prioritize the funding for prekindergarten programs.

The motion to instruct conferees was lost by (Record 797): 46 Yeas, 81 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Burnam; Davis, S.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Muñoz; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Frullo; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lyne; Margo; Miller, D.; Morrison; Murphy; Nash; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Davis, Y.; Geren; King, S.; Lewis; Madden; Martinez Fischer; Miles; Miller, S.; Naishtat; Orr; Truitt; Workman.

STATEMENTS OF VOTE

When Record No. 797 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 797 was taken, I was in the house but away from my desk. I would have voted no.

Madden

When Record No. 797 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 797 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative Simpson moved to instruct the Conference Committee on **HB 1** to include in the bill the appropriations and related provisions for the Texas emerging technology fund that were included in the senate version of the bill and to use those funds for public education, nursing homes, and libraries.

HB 1 - REMARKS

REPRESENTATIVE SIMPSON: Members, I have a motion to instruct the conferees on **HB 1**. It states, basically, that we would take the senate version of the Texas emerging technology fund, which is \$0, and our version in the house, I believe it's approximately \$139 million, and we allow these funds to be dispersed by the conferees for the use of public education, nursing homes, and libraries. So again, this is a motion to instruct the conferees to use the funds that in the house version are about \$139 million for the Texas emerging technology fund, and to use instead the senate version, which is \$0, and to use those funds and to spread them between public ed.—

REPRESENTATIVE GALLEG0: Mr. Simpson, are you aware of some of the challenges with the emerging technology fund?

SIMPSON: I'm aware the U.S. Constitution, which we all swore an oath to, says that we should promote the general welfare. I believe this promotes concentrated welfare for particular instances around our state.

GALLEG0: Well, if you look at many of the major newspapers, whether it be in Dallas, or Fort Worth, or Houston, there have been major issues with the emerging technology fund and how that funding has been used in terms of not being a good investment, not being a good rate of return for the taxpayers of Texas.

SIMPSON: And I've heard there have been some accounting issues, that we need more transparency in these funds.

GALLEG0: Mr. Simpson, you are very kind, and very diplomatic by calling them "accounting issues." But, I just want to bring to your attention that not only is it concentrated, but frankly, that fund hasn't served its purpose well, and it probably would be a much better rate of return, over the long term, if it was invested in the items you seek to invest it in.

SIMPSON: Thank you, I agree.

The motion to instruct conferees prevailed by (Record 798): 71 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burnam; Cain; Deshotel; Dukes; Dutton; Eiland; Farias; Fletcher; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hilderbran; Hochberg; Hughes; Johnson; King, T.; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; McClendon; Menendez;

Muñoz; Naishtat; Nash; Orr; Perry; Phillips; Pickett; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Sheets; Simpson; Smithee; Solomons; Strama; Thompson; Truitt; Turner; Villarreal; Vo; Walle; White.

Nays — Anderson, C.; Aycock; Branch; Burkett; Button; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Frullo; Geren; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Lewis; Madden; Margo; Miller, D.; Morrison; Murphy; Otto; Parker; Paxton; Pitts; Riddle; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Torres; Veasey; Weber; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Taylor, V.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Christian; Coleman; Davis, Y.; King, S.; Martinez Fischer; Miles; Miller, S.; Oliveira; Patrick; Peña; Taylor, L.

STATEMENTS OF VOTE

I was shown voting no on Record No. 798. I intended to vote yes.

Branch

When Record No. 798 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 798 was taken, I was in the house but away from my desk. I would have voted yes.

Patrick

I was shown voting no on Record No. 798. I intended to vote yes.

Zedler

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Simpson moved to instruct the Conference Committee on **HB 1** to include in the bill the appropriations and related provisions for the Texas enterprise fund that were included in the senate version of the bill and to use those funds for public education, nursing homes, and libraries.

The motion to instruct conferees was lost by (Record 799): 23 Yeas, 104 Nays, 5 Present, not voting.

Yeas — Allen; Alonzo; Burnam; Dutton; Eiland; Farias; Gallego; Gutierrez; Hochberg; Hughes; King, T.; Landtroop; Lozano; Perry; Pickett; Quintanilla; Raymond; Reynolds; Simpson; Veasey; Villarreal; Walle; White.

Nays — Aliseda; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gonzales, V.;

Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Price; Riddle; Ritter; Rodriguez; Schwertner; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Weber; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Dukes; Giddings; McClendon; Menendez.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Davis, Y.; Deshotel; Guillen; Mallory Caraway; Martinez Fischer; Miles; Oliveira; Scott.

STATEMENTS OF VOTE

When Record No. 799 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting no on Record No. 799. I intended to vote yes.

Zedler

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Simpson moved to instruct the Conference Committee on **HB 1** to include in the bill the appropriations and related provisions for film and music marketing that were included in the senate version of the bill and to use those funds for public education, nursing homes, and libraries.

The motion to instruct conferees was lost by (Record 800): 28 Yeas, 100 Nays, 3 Present, not voting.

Yeas — Bonnen; Burkett; Burnam; Cain; Davis, S.; Davis, Y.; Dutton; Farias; Gooden; Hughes; Johnson; King, S.; King, T.; Landtroop; Laubenberg; Paxton; Peña; Perry; Phillips; Quintanilla; Raymond; Sheets; Simpson; Smithee; Villarreal; Walle; Weber; White.

Nays — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Button; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Eiland; Elkins; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Pickett;

Pitts; Price; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Vo; Woolley; Workman; Zerwas.

Present, not voting — Mr. Speaker(C); Anchia; Reynolds.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Eissler; Guillen; Martinez Fischer; Menendez; Miles; Oliveira; Smith, W.; Turner; Zedler.

STATEMENT OF VOTE

When Record No. 800 was taken, I was in the house but away from my desk. I would have voted no.

Martinez Fischer

HB 1 - MOTION TO INSTRUCT CONFEREES

Representative Burnam moved to instruct the Conference Committee on **HB 1** to not sign a conference committee report that does not fund Texas nursing homes to FY 2010-11 levels, plus enrollment growth, and that does not fund TEXAS Grants to FY 2010-11 levels, plus enrollment growth.

The motion to instruct conferees was lost by (Record 801): 51 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Burnam; Christian; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hilderbran; Hochberg; Howard, D.; Johnson; King, T.; Kolkhorst; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Miller, D.; Muñoz; Naishtat; Nash; Oliveira; Orr; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Sheffield; Strama; Thompson; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Elkins; Fletcher; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Eissler; Geren; Harper-Brown; Martinez Fischer; Miles; Turner.

STATEMENTS OF VOTE

When Record No. 801 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 801 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

COMMITTEE GRANTED PERMISSION TO MEET

Representative Ritter requested permission for the Committee on Natural Resources to meet while the house is in session, at 1 p.m. today, in 1W.14, to consider **HB 2166**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Natural Resources, 1 p.m. today, 1W.14, for a formal meeting, to consider **HB 2166** and pending business.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 12:25 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 12:25 p.m. today, 3W.9, for a formal meeting, to consider pending business.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 23).

HB 1 - (consideration continued)**HB 1 - MOTION TO INSTRUCT CONFEREES**

Representative Veasey moved to instruct the Conference Committee on **HB 1** to not sign a conference committee report that does not fund the TEXAS Grant program for each fiscal year of the state fiscal biennium ending August 31,

2013, at least at the same level the program was funded for the state fiscal year ending August 31, 2011, as adjusted for any change in student enrollment in public institutions of higher education.

The motion to instruct conferees was lost by (Record 802): 46 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Branch; Burnam; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hilderbran; Hochberg; Howard, D.; Johnson; Larson; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Miller, S.; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Sheffield; Simpson; Strama; Veasey; Villarreal; Vo; Walle; White.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Brown; Button; Cain; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Burkett; Callegari; Carter; Coleman; Farias; Geren; King, T.; Martinez Fischer; Miles; Perry; Rodriguez; Thompson; Turner.

STATEMENTS OF VOTE

When Record No. 802 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 802 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 802. I intended to vote no.

S. Miller

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative Perry moved to instruct the Conference Committee on **HB 1** to establish the following priorities for the expenditure of any funds in excess of amounts appropriated by the house version of the bill or amounts reallocated by the senate version of the bill in the conference committee report in proportion to the amounts represented in the senate version of the bill:

- (1) Health and Human Services programs, including nursing homes and other programs under the Department of Aging and Disability Services; and
- (2) Public Education.

The motion to instruct conferees prevailed by (Record 803): 70 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, R.; Beck; Bonnen; Burkett; Burnam; Cain; Carter; Christian; Davis, S.; Dukes; Dutton; Farias; Gallego; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Hamilton; Harless; Hilderbran; Hochberg; Hughes; Isaac; Jackson; King, S.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Marquez; Martinez; McClendon; Menendez; Muñoz; Naishtat; Nash; Orr; Patrick; Paxton; Perry; Phillips; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, T.; Smithee; Strama; Torres; Truitt; Villarreal; Vo; Walle; White; Zedler.

Nays — Alonzo; Anderson, C.; Aycock; Berman; Branch; Brown; Button; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Frullo; Gooden; Gutierrez; Hardcastle; Harper-Brown; Hartnett; Howard, C.; Howard, D.; Hunter; Keffer; King, P.; Kleinschmidt; Lewis; Lyne; Madden; Mallory Caraway; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Oliveira; Otto; Parker; Pitts; Riddle; Ritter; Sheffield; Shelton; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Veasey; Woolley; Workman; Zerwas.

Present, not voting — Mr. Speaker(C); Giddings.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Geren; Hancock; Johnson; King, T.; Martinez Fischer; Miles; Peña; Thompson; Turner; Weber.

STATEMENTS OF VOTE

When Record No. 803 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 803 was taken, I was in the house but away from my desk. I would have voted no.

Martinez Fischer

When Record No. 803 was taken, I was in the house but away from my desk. I would have voted yes.

Weber

HB 1 - CONFERENCE COMMITTEE INSTRUCTED

Representative Chisum moved to instruct the Conference Committee on **HB 1** to include in the conference committee report language from Article II, Sec. B.13, House Engrossed Version (House Floor Amendment No. 64) without change to the substance of that section.

The motion to instruct conferees prevailed by (Record 804): 115 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hilderbran; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Veasey; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Creighton; Davis, Y.; Dutton; Gutierrez; Hartnett; Hochberg; Johnson; King, S.; Laubenberg; Nash; Oliveira; Paxton; Reynolds; Turner; Villarreal; Walle.

Present, not voting — Mr. Speaker(C); Giddings.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Callegari; Coleman; Geren; Hancock; Jackson; Martinez Fischer; Miles; Thompson.

STATEMENTS OF VOTE

When Record No. 804 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 804 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting no on Record No. 804. I intended to vote yes.

Paxton

HB 1 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1**: Pitts, chair; Turner, Zerwas, Otto, and Crownover.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Pitts requested permission for the Conference Committee on **HB 1** to meet while the house is in session for the remainder of the session.

Permission to meet was granted.

Representative Truitt requested permission for the Committee on Pensions, Investments, and Financial Services to meet while the house is in session, at 3 p.m. today, in 3W.9, to consider pending business.

(Bonnen in the chair)

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions, Investments, and Financial Services, 3 p.m. today, 3W.9, for a formal meeting, to consider pending business.

GENERAL STATE CALENDAR**HOUSE BILLS****THIRD READING**

The following bills were laid before the house and read third time:

HB 710 ON THIRD READING

(by Walle, Menendez, Naishtat, and Muñoz)

HB 710, A bill to be entitled An Act relating to verification of identity of applicants for benefits under and prevention of duplicate participation in the financial assistance and supplemental nutrition assistance programs.

HB 710 was passed by (Record 805): 106 Yeas, 9 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson, R.; Aycock; Beck; Brown; Burnam; Button; Cain; Chisum; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Dutton; Eissler; Farias; Fletcher; Frullo; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Peña; Perry; Phillips; Pickett; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Scott; Sheets;

Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Torres; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Berman; Elkins; Keffer; King, P.; Paxton; Schwertner; Truitt; Zedler.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aliseda; Anchia; Branch; Burkett; Callegari; Carter; Christian; Coleman; Darby; Davis, Y.; Eiland; Gallego; Geren; Hancock; Johnson; Lucio; Martinez Fischer; Miles; Otto; Pitts; Rodriguez; Solomons; Thompson; Turner; Villarreal.

STATEMENTS OF VOTE

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Anchia

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

I was shown voting yes on Record No. 805. I intended to vote no.

Button

When Record No. 805 was taken, my vote failed to register. I would have voted yes.

Carter

I was shown voting yes on Record No. 805. I intended to vote no.

Fletcher

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 805. I intended to vote no.

D. Miller

I was shown voting yes on Record No. 805. I intended to vote no.

S. Miller

When Record No. 805 was taken, I was in the house but away from my desk. I would have voted yes.

Solomons

HB 2610 ON THIRD READING
(by Guillen, Hopson, and Dukes)

HB 2610, A bill to be entitled An Act relating to the establishment of a community-based navigator program to assist individuals applying or seeking to apply through the Internet for certain public assistance benefits programs.

HB 2610 was passed by (Record 806): 64 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Berman; Burnam; Chisum; Crownover; Davis, J.; Deshotel; Dukes; Dutton; Eissler; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hardcastle; Hartnett; Hochberg; Howard, D.; Hughes; Hunter; Keffer; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Scott; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Strama; Taylor, L.; Torres; Vo; Walle.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Brown; Button; Cain; Cook; Craddick; Creighton; Davis, S.; Driver; Elkins; Fletcher; Frullo; Hamilton; Harless; Harper-Brown; Hilderbran; Howard, C.; Isaac; Jackson; King, P.; King, S.; Landtroop; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, D.; Miller, S.; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Riddle; Ritter; Schwertner; Sheets; Smith, T.; Solomons; Taylor, V.; Truitt; Veasey; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aliseda; Anchia; Branch; Burkett; Callegari; Carter; Christian; Coleman; Darby; Davis, Y.; Eiland; Farias; Gallego; Geren; Hancock; Johnson; Martinez Fischer; Miles; Rodriguez; Thompson; Turner; Villarreal.

STATEMENTS OF VOTE

When Record No. 806 was taken, I was in the house but away from my desk. I would have voted no.

Anchia

When Record No. 806 was taken, I was in the house but away from my desk. I would have voted no.

Branch

When Record No. 806 was taken, my vote failed to register. I would have voted yes.

Carter

When Record No. 806 was taken, I was in the house but away from my desk. I would have voted no.

Geren

I was shown voting yes on Record No. 806. I intended to vote no.

Kolkhorst

When Record No. 806 was taken, I was in the house but away from my desk. I would have voted no.

Martinez Fischer

I was shown voting yes on Record No. 806. I intended to vote no.

W. Smith

I was shown voting no on Record No. 806. I intended to vote yes.

Zerwas

HB 2704 ON THIRD READING
(by Sheffield)

HB 2704, A bill to be entitled An Act relating to a parent's right to object to physical fitness assessment of the parent's child by a school district.

HB 2704 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE R. ANDERSON: Mr. Sheffield, I just heard from the back microphone that there hadn't been parents that have objected to this. Are you aware of parents that have objected to this fitness assessment, also called the Fitnessgram? Okay, I will also join that. One of the things that tend to be lost in this is that many times the children that are being tested are being tested in public.

Are you aware of the anti-bullying legislation we just passed a couple of days ago? It plays a very big role, and as the parent of a child who is overweight—who has eaten everything that my 15-year-old that is as slim as my index, or my little finger—we have been through early childhood intervention, we have been through a pilot program at Children's Medical Center, and yet, when he is subjected to this fitness program in front of fifth-grade boys and girls, and he takes the absolute dejection and the absolute ridicule, I absolutely want the opportunity to opt my child out. Not because I don't care about my child, not because I don't care about the fitness of my child, but because I care about the mental well-being of my child.

And I care about the bullying that happens every single day that this test occurs, and I've been through it, I've lived through it. I've watched my son live through it. That's why I would absolutely like us to get rid of the Fitnessgram on a financial basis, but this is a good start.

REMARKS ORDERED PRINTED

Representative Sheffield moved to print remarks by Representative R. Anderson.

The motion prevailed.

HB 2704 was passed by (Record 807): 119 Yeas, 18 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Gallego; Gutierrez; Johnson; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Muñoz; Rodriguez; Thompson; Veasey; Villarreal; Walle.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Giddings; King, T.; Miles.

HB 1418 ON THIRD READING (by Hughes)

HB 1418, A bill to be entitled An Act relating to inmate litigation.

HB 1418 was passed by (Record 808): 130 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren;

Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Burnam; Giddings; Guillen; King, T.; Lucio; Miles; Muñoz; Raymond; Scott; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 808. I intended to vote no.

Anchia

I was shown voting yes on Record No. 808. I intended to vote no.

Marquez

HB 1788 ON THIRD READING (by Farias, T. King, Larson, and Gallego)

HB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

Representative Farias moved to postpone consideration of **HB 1788** until 1:16 p.m. today.

The motion prevailed.

(P. King in the chair)

HB 2029 ON THIRD READING (by Flynn)

HB 2029, A bill to be entitled An Act relating to the sale of a cemetery plot; providing penalties.

HB 2029 was passed by (Record 809): 114 Yeas, 15 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias;

Fletcher; Frullo; Gallego; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hochberg; Howard, C.; Hughes; Hunter; Isaac; Jackson; Johnson; King, S.; Kleinschmidt; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; White; Woolley; Zedler; Zerwas.

Nays — Carter; Chisum; Elkins; Hilderbran; Howard, D.; Keffer; Kolkhorst; Kuempel; Madden; Miller, S.; Phillips; Sheffield; Taylor, V.; Weber; Workman.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aycock; Creighton; Giddings; Guillen; King, T.; Lucio; Menendez; Miles; Pitts; Raymond; Turner.

STATEMENT OF VOTE

I was shown voting no on Record No. 809. I intended to vote yes.

D. Howard

HB 2329 ON THIRD READING (by Zedler)

HB 2329, A bill to be entitled An Act relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.

(Bonnen in the chair)

HB 2329 was passed by (Record 810): 129 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Fletcher; Frullo; Gallego; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips;

Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Torres.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Crownover; Eissler; Elkins; Giddings; Gonzales, V.; King, T.; Lucio; Miles; Pickett; Turner.

STATEMENT OF VOTE

I was shown voting no on Record No. 810. I intended to vote yes.

Torres

HB 3393 ON THIRD READING (by Hughes)

HB 3393, A bill to be entitled An Act relating to the filing by a court reporter of an official transcript of a court proceeding.

HB 3393 was passed by (Record 811): 133 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Burnam; Elkins; King, T.; Larson; Lucio; Pickett; Reynolds.

STATEMENT OF VOTE

When Record No. 811 was taken, I was in the house but away from my desk. I would have voted yes.

Lucio

**HB 3483 ON THIRD READING
(by Christian)**

HB 3483, A bill to be entitled An Act relating to seller's disclosure regarding the presence of contaminants on residential real property.

HB 3483 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PHILLIPS: Is it your intent by this disclosure—there is no penalty associated, or requirement if it is unknown to the property owner. Is that correct?

REPRESENTATIVE CHRISTIAN: That is correct.

PHILLIPS: And that would be your—the answer to that question would be proper to say is the legislative intent of this legislation?

CHRISTIAN: That is correct. It is just to notify, if it is known that they be notified. I've had several instances where people would buy property, later find out there was contaminants, and wound up going into bankruptcy to take care of a problem with TCEQ that they weren't even aware of when they started. And it's been a horrible situation as people get this property that had old businesses that were there 30 years prior, and yet it is the current owner that is liable for any repair. So, it's been a horrible situation, destroyed a couple of young couples, their entire futures, through areas they didn't even know. So, this just says they must be notified in residential purchases.

REMARKS ORDERED PRINTED

Representative Phillips moved to print remarks between Representative Christian and Representative Phillips.

The motion prevailed.

HB 3483 was passed by (Record 812): 129 Yeas, 7 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy;

Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Harper-Brown; Miller, S.; Orr; Phillips; Solomons; Strama.

Present, not voting — Mr. Speaker; Bonnen(C); Hartnett.

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Coleman; King, T.; Lucio.

STATEMENT OF VOTE

I was shown voting yes on Record No. 812. I intended to vote no.

Weber

HB 2678 ON THIRD READING (by T. Smith)

HB 2678, A bill to be entitled An Act relating to the regulation of driver training schools and instructors.

HB 2678 was passed by (Record 813): 129 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Nays — Carter; Isaac; Kolkhorst; Simpson; Workman.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Aycock; Chisum; Geren; King, T.; Laubenberg; Lavender.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 813. I intended to vote no.

Christian

When Record No. 813 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

**HB 2814 ON THIRD READING
(by Hochberg)**

HB 2814, A bill to be entitled An Act relating to electronic voter registration.

Amendment No. 1

Representative Zedler offered the following amendment to **HB 2814**:

Amend **HB 2814** (second reading engrossment), on page 2, between lines 5 and 6, by inserting the following:

(f) The rules adopted under Subsection (e) must require that each Internet website through which a person may complete a voter registration application include a description of the offense described by Section 13.007 in a conspicuous location on the website near the place where the person begins or submits the application.

Amendment No. 1 was adopted.

HB 2814, as amended, was passed by (Record 814): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberger; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Weber.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — King, T.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 1788 ON THIRD READING (by Farias, T. King, Larson, and Gallego)

HB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

HB 1788 was read third time earlier today and was postponed until this time.

Amendment No. 1

Representative Gallego offered the following amendment to **HB 1788**:

Amend **HB 1788** (second reading engrossment) as follows:

(1) On page 3, lines 14 and 15, strike "Subsections (c) and (d)" and substitute "Subsections (c), (d), and (e)".

(2) On page 4, between lines 3 and 4, insert the following:

(e) A person may not use a spotlight attached to a motor vehicle in capturing a reptile or amphibian under Subsection (c).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Gallego offered the following amendment to **HB 1788**:

Amend **HB 1788** on third reading on page 2, by striking lines 24-27 and substituting the following:

(2) an employee of the state, a utility, as defined by Section 203.091, Transportation Code, or a power generation company, as defined by Section 31.002, Utilities Code, and is acting in the course and scope of the person's employment with the state, the utility, or the power generation company; or

Amendment No. 2 was adopted.

HB 1788, as amended, was passed by (Record 815): 108 Yeas, 31 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Branch; Burnam; Button; Carter; Chisum; Coleman; Cook; Craddick; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hochberg; Howard, C.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Larson; Lavender; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez;

Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Aycock; Beck; Berman; Brown; Burkett; Cain; Callegari; Christian; Creighton; Darby; Fletcher; Frullo; Hartnett; Howard, D.; King, S.; Kuempel; Landtroop; Laubenberg; Legler; Lewis; Madden; Miller, S.; Parker; Paxton; Perry; Riddle; Schwertner; Sheffield; Weber; White; Zedler.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Guillen.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Pickett requested permission for the Committee on Defense and Veterans' Affairs to meet while the house is in session, at 2 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

Representative Kolkhorst requested permission for the Committee on Public Health to meet while the house is in session, at 2:30 p.m. today, in 1W.14, to consider pending business.

Permission to meet was granted.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 23).

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, 2:30 p.m. today, 1W.14, for a formal meeting, to consider pending business.

Defense and Veterans' Affairs, 2 p.m. today, 3W.15, for a formal meeting, to consider pending business.

GENERAL STATE CALENDAR (consideration continued)

HB 1278 ON THIRD READING (by Coleman)

HB 1278, A bill to be entitled An Act relating to regulation by a property owners' association of certain religious displays.

HB 1278 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: Chairman Coleman, just a couple of clarifications about your bill. I know I saw some of the testimony and so forth in the committee. The way I'm reading this—I want to clarify that you are saying to property owners, "You cannot prohibit religious symbols." And kind of, in a way, creating a floor. It doesn't mean a property owners association—I mean a homeowners association, or a property owners association can't make and allow bigger religious symbols?

REPRESENTATIVE COLEMAN: They can allow religious symbols of any size. This does not prohibit at all the placement of religious symbols. What it does is it allows a prohibition—doesn't allow a prohibition of a very small religious symbol if someone were to prohibit them.

KOLKHORST: So, what you're trying to get at is keeping someone from—you're allowing a religious—you're saying you have to allow it at least at 25 square inches?

COLEMAN: That's correct.

KOLKHORST: Instead of saying that's all you can do?

COLEMAN: That's correct. It takes the all-or-nothing away and allows for someone to place a religious, a small symbol, if a homeowners' is trying to ban a placement of all religious symbols.

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Coleman and Representative Kolkhorst.

The motion prevailed.

HB 1278 was passed by (Record 816): 129 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Berman; Christian; King, S.; Simpson.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson; Huberty.

Absent — Creighton; King, T.; Kuempel; Martinez; Nash; Pickett; Sheets.

STATEMENTS OF VOTE

I was shown voting no on Record No. 816. I intended to vote yes.

Christian

When Record No. 816 was taken, I was excused because of important business in the district. I would have voted yes.

Huberty

I was shown voting no on Record No. 816. I intended to vote yes.

S. King

When Record No. 816 was taken, I was temporarily out of the house chamber. I would have voted yes.

Sheets

HB 751 ON THIRD READING

(by Lewis)

HB 751, A bill to be entitled An Act relating to the attendance by a quorum of a legislative standing committee at a caucus meeting.

Representative Lewis moved to postpone consideration of **HB 751** until 2:05 p.m. today.

The motion prevailed.

GENERAL STATE CALENDAR

SENATE BILLS

THIRD READING

The following bills were laid before the house and read third time:

SB 1107 ON THIRD READING

(C. Howard - House Sponsor)

SB 1107, A bill to be entitled An Act relating to the vaccination against bacterial meningitis of entering students at public and private or independent institutions of higher education.

(Huberty now present)

(P. King in the chair)

SB 1107 was passed by (Record 817): 122 Yeas, 14 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Frullo; Geren; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Berman; Bonnen; Cain; Christian; Elkins; Hancock; Hartnett; Hilderbran; Miller, S.; Orr; Paxton; Phillips; Simpson; Weber.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson.

Absent — Gallego; Gonzales, L.; Hochberg; Lyne; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 817. I intended to vote no.

Harless

I was shown voting no on Record No. 817. I intended to vote yes.

Hilderbran

I was shown voting yes on Record No. 817. I intended to vote no.

Hughes

I was shown voting present, not voting on Record No. 817. I intended to vote no.

P. King

I was shown voting yes on Record No. 817. I intended to vote no.

Landtroop

When Record No. 817 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

SB 132 ON THIRD READING
(Flynn - House Sponsor)

SB 132, A bill to be entitled An Act relating to registration with the Selective Service System of certain applicants for a driver's license or personal identification certificate.

Representative Bonnen moved to postpone consideration of **SB 132** until 2:30 p.m. today.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Simpson moved to print his remarks regarding his motion to instruct conferees on the emerging technology fund.

The motion prevailed.

SB 1168 ON THIRD READING
(Harper-Brown - House Sponsor)

SB 1168, A bill to be entitled An Act relating to the repeal of the certification process for personnel service owners and the regulation of personnel services.

SB 1168 was passed by (Record 818): 135 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Berman; Elkins; Hilderbran; Phillips.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson.

Absent — Hochberg; Lyne.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 3473 ON SECOND READING
(by Gallego)**

HB 3473, A bill to be entitled An Act relating to a defense to prosecution for a child younger than 14 years old for the offense of prostitution.

HB 3473 was read second time on May 4 and was postponed until 7 a.m. today.

HB 3473 was passed to engrossment by (Record 819): 133 Yeas, 0 Nays, 2 Present, not voting. (The vote was reconsidered later today, and **HB 3473** was amended and was passed to engrossment.)

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson.

Absent — Allen; Dutton; Eiland; Lyne; Madden; Torres; Villarreal; Vo.

STATEMENT OF VOTE

When Record No. 819 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

**CSHB 922 ON SECOND READING
(by Riddle, V. Taylor, Carter, et al.)**

CSHB 922, A bill to be entitled An Act relating to the penalty for theft of an automated teller machine or the contents or components of an automated teller machine.

CSHB 922 was read second time on May 4, postponed until May 5, and was again postponed until 7 a.m. today.

Representative Riddle moved to postpone consideration of **CSHB 922** until 3 p.m. today.

The motion prevailed.

HB 2197 ON SECOND READING
(by Rodriguez)

HB 2197, A bill to be entitled An Act relating to the purchase of property as part of a homestead land bank program.

HB 2197 was read second time on May 4, postponed until May 5, and was again postponed until 7 a.m. today.

HB 2197 was passed to engrossment. (Berman and Flynn recorded voting no.)

CSHB 3375 ON SECOND READING
(by Murphy, Zedler, et al.)

CSHB 3375, A bill to be entitled An Act relating to certain evidence in a prosecution of fraud or theft involving Medicaid or Medicare benefits and to certain criminal procedures involving offenses in general.

CSHB 3375 was read second time on May 4 and was postponed until 7:30 a.m. today.

Representative Murphy moved to postpone consideration of **CSHB 3375** until 2 p.m. today.

The motion prevailed.

CSHB 2963 ON SECOND READING
(by Crownover)

CSHB 2963, A bill to be entitled An Act relating to deadlines for the Railroad Commission of Texas to review certain applications for surface coal mining operation permits.

CSHB 2963 was read second time on May 3 and was postponed until 8 a.m. today.

Representative Crownover moved to postpone consideration of **CSHB 2963** until 8 a.m. Monday, May 9.

The motion prevailed.

CSHB 1629 ON SECOND READING
(by Anchia)

CSHB 1629, A bill to be entitled An Act relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

CSHB 1629 was read second time on May 3 and was postponed until 8 a.m. today.

Representative Anchia moved to postpone consideration of **CSHB 1629** until 2:10 p.m. today.

The motion prevailed.

HB 2043 ON SECOND READING
(by Menendez)

HB 2043, A bill to be entitled An Act relating to the taxation of certain tangible personal property located inside a defense base development authority.

HB 2043 was read second time on May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Menendez moved to postpone consideration of **HB 2043** until 8 a.m. Monday, July 4.

The motion prevailed.

HB 3132 ON SECOND READING
(by Geren)

HB 3132, A bill to be entitled An Act relating to the membership, powers, and duties of the State Preservation Board.

HB 3132 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Geren moved to postpone consideration of **HB 3132** until 10 a.m. Monday, May 9.

The motion prevailed.

HB 3473 - VOTE RECONSIDERED

Representative Gallego moved to reconsider the vote by which **HB 3473** was passed to engrossment.

The motion to reconsider prevailed.

HB 3473 ON SECOND READING
(by Gallego)

The chair laid before the house, on its second reading and passage to engrossment,

HB 3473, A bill to be entitled An Act relating to a defense to prosecution for a child younger than 14 years old for the offense of prostitution.

HB 3473 was read second time earlier today and was passed to engrossment.

Amendment No. 1

Representative Menendez offered the following amendment to **HB 3473**:

Amend **HB 3473** by adding the following and renumbering the sections appropriately:

SECTION 1. Section 43.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if [unless] the actor has previously been convicted one or two times of an offense under this section;

(2) a state jail felony if [; in which event it is a Class A misdemeanor. If] the actor has previously been convicted three or more times of an offense under this section; or

(3) a felony of the third degree if:

(A) the actor is the person who is to pay the fee or who solicits another for hire; and

(B) the person who is to receive the fee or who is solicited to be hired is younger than 17 years of age at the time of the offense [; the offense is a state jail felony].

SECTION 2. Section 43.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the actor has previously been convicted of an offense under this section; or

(2) a felony of the third degree if:

(A) the person who provides prostitution services from which the actor receives money or other property is younger than 17 years of age at the time of the offense; or

(B) the actor solicits another to engage in sexual conduct with a person who is younger than 17 years of age.

SECTION 3. Section 43.04(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the third degree, unless any prostitute that is part of the actor's prostitution enterprise is younger than 17 years of age at the time of the offense, in which event it is a felony of the second degree.

SECTION 4. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c)(3) of that section;

(B-2) a violation of Section 43.03 (Promotion of prostitution), Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(B-3) a violation of Section 43.04 (Aggravated promotion of prostitution), Penal Code, if the offense is punishable as a felony of the second degree; and

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (B-1), (B-2), (B-3), (C), (D), (E), (G), or (J), but not if the violation results in a deferred adjudication;

Amendment No. 1 was adopted.

HB 3473, as amended, was passed to engrossment.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 1680 ON SECOND READING (Murphy - House Sponsor)

SB 1680, A bill to be entitled An Act relating to certain evidence in a prosecution of fraud or theft involving Medicaid or Medicare benefits and to certain criminal procedures involving offenses in general.

SB 1680 was considered in lieu of **CSHB 3375**.

SB 1680 was read second time and was passed to third reading.

CSHB 3375 - LAID ON THE TABLE SUBJECT TO CALL

Representative Murphy moved to lay **CSHB 3375** on the table subject to call.

The motion prevailed.

HB 751 ON THIRD READING (by Lewis)

HB 751, A bill to be entitled An Act relating to the attendance by a quorum of a legislative standing committee at a caucus meeting.

HB 751 was read third time earlier today and was postponed until this time.

Amendment No. 1

Representative Gallego offered the following amendment to **HB 751**:

Amend **HB 751** (second reading engrossment) on page 1, lines 18 and 19, by striking "lieutenant governor or the governor" and substituting "lieutenant governor, the governor, or a former member of the legislature".

Amendment No. 1 was adopted.

HB 751, as amended, was passed by (Record 820): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Christian; Coleman; Cook; Craddick; Creighton;

Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Bohac; Castro; Farrar; Flynn; Garza; Hernandez Luna; Hopson.

Absent — Bonnen; Chisum; Dutton; Keffer; Nash.

SB 1104 ON SECOND READING
(W. Smith and Legler - House Sponsors)

SB 1104, A bill to be entitled An Act relating to the operation, powers, and duties of ship channel districts.

SB 1104 was considered in lieu of **CSHB 2232**.

SB 1104 was read second time and was passed to third reading.

CSHB 3308 ON SECOND READING
(by Rodriguez)

CSHB 3308, A bill to be entitled An Act relating to the operation of plug-in electric motor vehicles.

CSHB 3308 was read second time on May 5 and was postponed until 8 a.m. today.

Representative Rodriguez moved to postpone consideration of **CSHB 3308** until 7 a.m. tomorrow.

The motion prevailed.

HB 1250 ON SECOND READING
(by Frullo)

HB 1250, A bill to be entitled An Act relating to the use of facsimile signatures for certain documents involving certain municipalities.

HB 1250 was read second time on April 26, postponed until May 3, and was again postponed until 9 a.m. today.

Representative Frullo moved to postpone consideration of **HB 1250** until 9 a.m. Monday, May 9.

The motion prevailed.

SB 1341 ON SECOND READING
(Elkins - House Sponsor)

SB 1341, A bill to be entitled An Act relating to the participation by a taxing unit in a suit to compel an appraisal review board to order a change in an appraisal roll.

SB 1341 was considered in lieu of **HB 1435**.

SB 1341 was read second time and was passed to third reading.

HB 1435 - LAID ON THE TABLE SUBJECT TO CALL

Representative Elkins moved to lay **HB 1435** on the table subject to call.

The motion prevailed.

HB 1477 ON SECOND READING
(by Allen and Marquez)

HB 1477, A bill to be entitled An Act relating to awarding credit to certain inmates for time between release on and revocation of parole, mandatory supervision, or conditional pardon.

HB 1477 was read second time on May 4, postponed until later that day, and was again postponed until 12 p.m. today.

Representative Allen moved to postpone consideration of **HB 1477** until 12 p.m. Wednesday, June 1.

The motion prevailed.

CSHB 2232 - LAID ON THE TABLE SUBJECT TO CALL

Representative W. Smith moved to lay **CSHB 2232** on the table subject to call.

The motion prevailed.

EMERGENCY CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSHB 12 ON SECOND READING
(by Solomons, Bohac, Harless, et al.)

CSHB 12, A bill to be entitled An Act relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

CSHB 12 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 12** under Rule 4, Section 20(a) of the House Rules on the grounds that the sworn statement of witnesses is incomplete.

The chair overruled the point of order and had read the following statement:

Representative Martinez Fischer raised a point of order under Rule 4, Section 20. Representative Martinez Fischer has provided one witness affirmation form that has a form left entirely blank on the line entry of a telephone number. Mr. Martinez Fischer states that other forms may contain this same defect.

A similar point was considered in **HB 2292**, 78th Regular Session (2003). In that case, two witness affirmation forms were left entirely blank or had an entry "N/A". The speaker in that case ruled that if there was sufficient information to allow an interested party to contact a witness regarding testimony given by a witness during a committee hearing, the purpose of the rule had been complied with. In this case, as in the ruling on **HB 2292**, the witness provided a complete mailing address that was sufficient for the purpose of the rule to be satisfied. Accordingly, the point of order is respectfully overruled.

(Speaker in the chair)

CSHB 12 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 12** under Rule 4, Section 20(a)(4) of the House Rules on the grounds that the sworn statement of witnesses is incomplete.

The speaker overruled the point of order.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 3:35 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 3:35 p.m. today, 3W.9, for a formal meeting, to set a calendar.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Hilderbran requested permission for the Committee on Ways and Means to meet while the house is in session, at 4 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

Representative S. Miller requested permission for the Committee on Homeland Security and Public Safety to meet while the house is in session, at 4:30 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Homeland Security and Public Safety, 4:30 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Ways and Means, 4 p.m. today, 3W.15, for a formal meeting, to consider pending business.

CSHB 12 - (consideration continued)**REMARKS ORDERED PRINTED**

Representative Martinez Fischer moved to print remarks on **CSHB 12**.

The motion prevailed. [Please refer to the supplement to today's journal for the text of the debate on **CSHB 12**.]

(Castro now present)

Representative V. Gonzales moved to suspend all necessary rules to extend speaking time on **CSHB 12**.

The motion prevailed by (Record 821): 96 Yeas, 24 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Branch; Brown; Burkett; Burnam; Castro; Chisum; Christian; Cook; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hardcastle; Harper-Brown; Hartnett; Hochberg; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, T.; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Lewis; Lozano; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Peña; Phillips; Pickett; Price; Quintanilla; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson, C.; Aycock; Beck; Berman; Bonnen; Button; Carter; Creighton; Fletcher; Harless; Jackson; Kleinschmidt; Legler; Madden; Miller, D.; Miller, S.; Nash; Perry; Riddle; Ritter; Sheffield; Weber; Woolley; Workman.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Hernandez Luna; Hopson.

Absent — Cain; Callegari; Coleman; Crownover; Elkins; Guillen; Hancock; Hilderbran; Howard, C.; King, P.; King, S.; Laubenberg; Lucio; Lyne; Morrison; Patrick; Paxton; Pitts; Raymond; Solomons; Taylor, L.; White; Zedler.

STATEMENT OF VOTE

When Record No. 821 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

Amendment No. 1

Representative Gutierrez offered the following amendment to **CSHB 12**:
Floor Packet Page No. 2

Amend **CSHB 12** (house committee report) as follows:

(1) On page 1, line 6, strike "Section 370.0031" and substitute "Sections 370.0031 and 370.005".

(2) On page 2, line 3, between "et seq.)" and the last underlined period, insert the following:

, pursuant to a written agreement with the United States secretary of homeland security and United States Immigration and Customs Enforcement under Section 287(g), Immigration and Nationality Act (8 U.S.C. Section 1357)

(3) On page 2, line 7, between "following" and the underlined colon, insert "pursuant to the written agreement described by Subsection (c)".

(4) At the end of SECTION 1 of the bill (page 4, between lines 14 and 15), insert the following:

Sec. 370.005. PERFORMANCE OF IMMIGRATION OFFICER FUNCTIONS. Notwithstanding any other law, an entity described by Section 370.0031(a) may not enforce state or federal law relating to immigrants or immigration unless the entity has entered into a written agreement with the United States secretary of homeland security and United States Immigration and Customs Enforcement under Section 287(g), Immigration and Nationality Act (8 U.S.C. Section 1357), to:

(1) provide employees of the entity with immigration law training under the supervision of United States Immigration and Customs Enforcement officers; and

(2) authorize employees of the entity to perform a function of an immigration officer.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

(L. Taylor in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the Committee on Homeland Security and Public Safety:

Peña on motion of Aliseda.

CSHB 12 - (consideration continued)

(Hernandez Luna now present)

CSHB 12 - POINT OF ORDER

Representative Martinez raised a point of order against further consideration of **CSHB 12** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the committee report is incorrect.

The chair overruled the point of order.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 5:30 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 5:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSHB 12 - (consideration continued)

Representative Solomons moved to table Amendment No. 1.

(Speaker in the chair)

The motion to table prevailed by (Record 822): 93 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Hopson.

Absent, Excused, Committee Meeting — Peña.

Absent — Callegari; Reynolds; Truitt.

STATEMENT OF VOTE

When Record No. 822 was taken, my vote failed to register. I would have voted yes.

Truitt

Amendment No. 2

Representative Anchia offered the following amendment to **CSHB 12**:

Floor Packet Page No. 3

Amend **CSHB 12** (house committee report) as follows:

(1) On page 1, line 8, strike "This" and substitute "Except as provided by Subsection (b-1), this".

(2) On page 1, between lines 22 and 23, insert the following:

(b-1) This section does not apply to a local law enforcement agency if the chief law enforcement officer for the agency determines that complying with this section would adversely affect:

(1) the amount of time required for the agency to respond to emergency calls from the public; or

(2) the agency's ability to respond to, investigate, or prosecute violent or drug-related crime, including offenses under Title 5, Penal Code, and Chapter 481, Health and Safety Code.

(Peña now present)

Representative Solomons moved to table Amendment No. 2.

The motion to table prevailed by (Record 823): 95 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez

Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Hopson.

Absent — Allen; Oliveira; Torres.

STATEMENTS OF VOTE

When Record No. 823 was taken, I was in the house but away from my desk. I would have voted no.

Allen

When Record No. 823 was taken, I was in the house but away from my desk. I would have voted no.

Oliveira

When Record No. 823 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSHB 12 - (consideration continued)

Amendment No. 3

Representative Martinez Fischer offered the following amendment to **CSHB 12**:

Floor Packet Page No. 4

Amend **CSHB 12** (house committee printing) as follows:

(1) On page 1, line 8, strike "This" and substitute "Except as provided by Subsection (b-1), this".

(2) On page 1, between lines 22 and 23, add the following:

(b-1) This section does not apply to a municipality or county or an officer, employee, or other body that is part of a municipality or county, including a sheriff, municipal police department, municipal attorney, or county attorney, as appropriate, if the governing body of the municipality or county adopts, by a vote of at least three-fourths of the members of the governing body, a resolution to opt out of the application of this section to the municipality or county.

Representative Solomons moved to table Amendment No. 3.

The motion to table prevailed by (Record 824): 93 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Hopson.

Absent — Christian; Huberty; Thompson; Torres.

STATEMENTS OF VOTE

When Record No. 824 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

When Record No. 824 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

When Record No. 824 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

COMMITTEE GRANTED PERMISSION TO MEET

Representative Guillen requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, at 6:15 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Culture, Recreation, and Tourism, 6:15 p.m. today, 3W.15, for a formal meeting, to consider pending business.

CSHB 12 - (consideration continued)

Amendment No. 4

On behalf of Representative Farrar, Representative Gallego offered the following amendment to **CSHB 12**:

Floor Packet Page No. 5

Amend **CSHB 12** (house committee printing) as follows:

- (1) On page 1, line 10, strike "county".
- (2) On page 1, line 13, strike "county".
- (3) On page 1, lines 14-15, strike "sheriff, municipal police department, municipal attorney, or county attorney" and substitute "municipal police department or municipal attorney".
- (4) On page 2, line 26, strike "or county".

Representative Solomons moved to table Amendment No. 4.

The motion to table prevailed by (Record 825): 94 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Hopson.

Absent — Brown; Eiland; Torres; Villarreal.

STATEMENTS OF VOTE

When Record No. 825 was taken, I was in the house but away from my desk. I would have voted yes.

Brown

When Record No. 825 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

(Geren in the chair)

Amendment No. 5

Representative Martinez Fischer offered the following amendment to **CSHB 12**:

Floor Packet Page No. 6

Amend **CSHB 12** (house committee printing) as follows:

(1) On page 1, lines 10-11, strike "municipality, county, or special district or authority, subject to Subsection (b)" and substitute "municipality or county".

(2) On page 1, line 13, strike "municipality, county, or special district or authority," and substitute "municipality or county,".

(3) On page 1, strike lines 17-22.

(4) Reletter subsequent subsections accordingly.

(5) On page 2, line 4, strike "(c)" and substitute "(b)".

(6) On page 3, line 4, 6, 11, 17, and 19, strike "(c)" each place it appears and substitute "(b)".

(7) On page 3, line 23, strike "(f)" and substitute "(e)".

(8) On page 4, lines 3, 5, and 6, strike "(c)" each place it appears and substitute "(b)".

(9) On page 4, line 10, strike "(g)" and substitute "(f)".

CSHB 12 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 12** under Rule 4, Section 20(a)(5) of the House Rules on the grounds that the sworn statement of witnesses is incomplete.

The point of order was withdrawn.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today and tomorrow because of important business in the district:

Giddings on motion of Turner.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Truitt requested permission for the Committee on Pensions, Investments, and Financial Services to meet while the house is in session, at 6:45 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions, Investments, and Financial Services, 6:45 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSHB 12 - (consideration continued)**CSHB 12 - POINT OF ORDER**

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 12** under Rule 4, Section 20(a)(5) of the House Rules on the grounds that the sworn statement of witnesses is incorrect.

The chair sustained the point of order.

CSHB 12 was returned to the Committee on State Affairs.

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

(Speaker in the chair)

CSHB 400 ON SECOND READING

(by Eissler, Aycock, Crownover, Garza, et al.)

CSHB 400, A bill to be entitled An Act relating to flexibility for public schools to administer primary and secondary education efficiently.

Pursuant to Rule 5, Section 28 of the House Rules, Representative Turner requested an extension of speaking time on **CSHB 400**.

The request was granted by (Record 826): 107 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Chisum; Christian; Coleman; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Frullo; Gallego; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Harless; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Morrison; Muñoz; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Phillips; Pickett; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Crownover; Geren; Legler; Nash; Weber; White.

Present, not voting — Mr. Speaker(C); Aliseda.

Absent, Excused — Bohac; Farrar; Flynn; Garza; Giddings; Hopson.

Absent — Anderson, C.; Callegari; Castro; Cook; Elkins; Gutierrez; Hancock; Hardcastle; Harper-Brown; Hartnett; Howard, C.; Hughes; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Miles; Miller, D.; Miller, S.; Murphy; Paxton; Peña; Perry; Pitts; Ritter; Smith, T.; Smith, W.; Turner.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Cook requested permission for the Committee on State Affairs to meet while the house is in session, at 9 p.m. today, in 3W.15, to consider **HB 12**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State Affairs, 9 p.m. today, 3W.15, for a formal meeting, to consider **HB 12**.

CSHB 400 - (consideration continued)

Amendment No. 1

Representatives Eissler, Weber, Shelton, and T. Smith offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee report) as follows:

(1) On page 5, lines 22 and 23, strike "~~the 45th day before~~" and substitute "the 15th ~~[45th]~~ day before".

(2) On page 5, lines 25 and 26, strike "regular mail or prepaid certified mail or by an express delivery service" and substitute "prepaid certified mail".

(3) On page 6, line 13, strike "~~[45th day before the]~~" and substitute "15th [45th] day before the".

(4) On page 6, lines 17 and 18, strike "regular mail or prepaid certified mail or by an express delivery service" and substitute "prepaid certified mail".

(5) On page 7, line 11, strike "A school" and substitute "Except as provided under Subsection (g), a school".

(6) On page 8, between lines 26 and 27, insert the following subsections:

(f) A plan adopted under Subsection (a) may not provide for an annual salary of a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse that is less than the minimum salary prescribed by Section 21.4033.

(g) A school district that, before the effective date of a law requiring adoption of such a plan, adopted a strategic compensation plan to recruit, reward, and retain effective classroom teachers, librarians, counselors, and nurses is not required to adopt a strategic compensation plan under this section.

(7) Insert the following appropriately numbered SECTION into the bill:

SECTION _____. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.4033 to read as follows:

Sec. 21.4033. MINIMUM SALARY FOR CERTAIN PROFESSIONAL STAFF. A school district shall pay each district classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than an annual salary of \$27,320.

(8) Strike SECTION 14 of the bill (page 9, line 16, through page 10, line 6) and substitute the following appropriately numbered SECTION:

SECTION _____. Section 25.112, Education Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (e-1) to read as follows:

(d) On application of a school district, the commissioner shall ~~may~~ except the district from the limit in Subsection (a), except as provided by Subsection (d-1) ~~[if the commissioner finds the limit works an undue hardship on the district]~~. An exception expires at the end of the school year for which it is granted.

(d-1) The commissioner may not grant an exception to a school district under Subsection (d) if the exception would:

(1) allow the district to enroll more than 25 students in a class at a grade level subject to the limit in Subsection (a);

(2) result in the district exceeding a district-wide average enrollment of 22 students in classes at grade levels subject to the limit under Subsection (a); or

(3) negatively affect the education of students enrolled in the district or at a district campus, as applicable, as determined by the commissioner.

(e-1) The board of trustees of a school district may adopt a policy authorizing the superintendent of the district to apply on behalf of the district, as needed, for an exception under Subsection (d).

(9) Strike SECTION 15 of the bill (page 10, lines 7-27) and substitute the following appropriately numbered SECTION:

SECTION _____. Section 25.113(a), Education Code, is amended to read as follows:

(a) A campus or district that is granted an exception under Section 25.112(d) from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception or shall post notice of the exception on the district's Internet website. The notice under this subsection must be in conspicuous bold or underlined print or type and:

(1) specify the class for which an exception from the limit imposed by Section 25.112(a) was granted;

(2) state the number of children in the class for which the exception was granted; and

(3) unless posted on the district's Internet website, be included in a regular mailing or other communication from the campus or district, such as information sent home with students.

(10) Strike SECTION 31 of the bill (page 25, lines 13-22) and substitute the following appropriately numbered SECTION:

SECTION _____. This Act applies beginning with the 2011-2012 school year.

(11) Renumber SECTIONS of the bill appropriately.

(Darby in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hamilton requested permission for the Committee on Licensing and Administrative Procedures to meet while the house is in session, at 8:30 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Licensing and Administrative Procedures, 8:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSHB 400 - (consideration continued)

Amendment No. 2

Representative Phillips offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Eissler (82R22676) by striking page 1, line 2, through page 3, line 17, of the amendment, and substituting the following appropriately numbered items:

() Strike page 2, line 9, through page 7, line 8, and substitute the following appropriately numbered SECTIONS:

SECTION _____. Section 21.103(a), Education Code, is amended to read as follows:

(a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision to terminate the employment to the teacher not later than the 30th ~~45th~~ day before the last day of instruction required under the contract. The board's decision is final and may not be appealed.

SECTION _____. Section 21.105(a), Education Code, is amended to read as follows:

(a) A teacher employed under a probationary contract for the following school year may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written resignation not later than the 30th ~~45th~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

SECTION _____. Section 21.160(a), Education Code, is amended to read as follows:

(a) A teacher employed under a continuing contract may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written

resignation not later than the 30th ~~[45th]~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at time of mailing.

SECTION _____. Section 21.206(a), Education Code, is amended to read as follows:

(a) Not later than the 30th ~~[45th]~~ day before the last day of instruction in a school year, the board of trustees shall notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract.

SECTION _____. Section 21.210(a), Education Code, is amended to read as follows:

(a) A teacher employed under a term contract with a school district may relinquish the teaching position and leave the employment of the district at the end of a school year without penalty by filing a written resignation with the board of trustees or the board's designee not later than the 30th ~~[45th]~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

SECTION _____. Subchapter I, Chapter 21, Education Code, is amended by adding Sections 21.4021, 21.4022, and 21.4023 to read as follows:

Sec. 21.4021. FURLOUGHS. (a) This section applies only to the 2011-2012 and 2012-2013 school years.

(b) Notwithstanding Section 21.401 and subject to Sections 21.4022 and 21.4023, the board of trustees of a school district may, in accordance with district policy, implement a furlough program and reduce the number of days of service otherwise required under Section 21.401 during a school year if the commissioner certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year.

(c) The number of furlough days required under the program may not exceed the lesser of:

(1) six days of service; or

(2) the number of days of service that result in a percentage reduction in salaries paid to employees entitled to the salary described by Section 21.402(d) that is equal to the percentage by which the district's state and local funding is reduced for the applicable school year, as certified by the commissioner under Section 42.009.

(d) Notwithstanding Section 21.402(d) but subject to Section 21.4022, the board of trustees may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced, provided that the furlough program is implemented in compliance with this section.

(e) A furlough program must subject all contract personnel to the same number of furlough days, except that, for purposes of providing professional development, the board of trustees may exempt from furloughs or subject to a lesser number of required furlough days contract personnel assigned to a campus that:

(1) does not satisfy performance standards under Section 39.054(e); or
(2) satisfies performance standards under Section 39.054(e) for the current school year but would not satisfy performance standards under Section 39.054(e) if the standards to be used for the following year were applied to the current year.

(f) An educator may not be furloughed on a day that is included in the number of days of instruction required under Section 25.081.

(g) An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

(h) A furlough imposed under this section does not constitute a break in service for purposes of the Teacher Retirement System of Texas.

(i) Implementation of a furlough program may not result in an increase in the number of required teacher workdays.

(j) If a board of trustees decides to implement a furlough program after the date by which a teacher must give notice of resignation under Section 21.105, 21.160, or 21.210, as applicable, a teacher who subsequently resigns is not subject to sanctions imposed by the State Board for Educator Certification as otherwise authorized by those sections.

(k) Notwithstanding Section 21.157 or 21.211, a school district that implements a furlough program may not, on the basis of financial exigency, discharge an employee entitled to the salary provided by Section 21.402(d).

(l) A decision by the board of trustees to implement a furlough program:

(1) is final and may not be appealed; and

(2) does not create a cause of action or require collective bargaining.

(m) This section expires September 1, 2013.

Sec. 21.4022. SALARY REDUCTION. (a) This section applies only to the 2011-2012 and 2012-2013 school years.

(b) Notwithstanding Section 21.402(d), but subject to Section 21.4023, a school district may, if authorized by the board of trustees, reduce for a school year the monthly salary of employees otherwise entitled to the salary described by Section 21.402(d) if:

(1) the commissioner certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year; and

(2) the district implements a furlough program under Section 21.4021 imposing the greatest number of furlough days permitted under that section, and the program does not produce a percentage of salary reduction equal to the percentage by which the district's state and local funding is reduced for the applicable school year, as certified by the commissioner under Section 42.009.

(c) A school district that reduces salaries under this section must subject all contract personnel to the same percentage salary reduction, except that the district may reduce by a greater percentage the salary of an employee not entitled to the salary described by Section 21.402(d).

(d) A school district may not, through the cumulative effect of furloughs under Section 21.4021 and reductions under this section, reduce employees' salaries received for the 2010-2011 school year by more than the percentage by which the district's state and local funding is reduced for the applicable school year, as certified by the commissioner under Section 42.009.

(e) A decision by the board of trustees to authorize a salary reduction:

(1) is final and may not be appealed; and

(2) does not create a cause of action or require collective bargaining.

(f) Notwithstanding Section 21.157 or 21.211, a school district that reduces salaries under this section may not, on the basis of financial exigency, discharge an employee entitled to the salary provided by Section 21.402(d).

(g) This section expires September 1, 2013.

Sec. 21.4023. REQUIRED PROCESS FOR DEVELOPMENT OF FURLOUGH PROGRAM AND OTHER SALARY REDUCTION PROPOSAL.

(a) The board of trustees of a school district may not implement a furlough program under Section 21.4021 and, if applicable, reduce salaries in accordance with Section 21.4022 until the district has complied with this section.

(b) To develop a furlough program and, if applicable, an additional salary reduction proposal, a school district must use a process that:

(1) includes the involvement of the district's professional staff, either through participation of the district's district-level planning and decision-making committee established under Subchapter F, Chapter 11, or through other means; and

(2) provides district employees with the opportunity to express opinions regarding the furlough program and, if applicable, the salary reduction proposal, at the public meeting required by Subsection (c).

(c) The board of trustees must hold a public meeting at which the board and school district administration present:

(1) information regarding the options considered for managing the district's available resources, including use of the district's available fund balance and use of the Guaranteed Yield Program under Subchapter F, Chapter 42; and

(2) an explanation of how the district intends, through implementation of a furlough program under Section 21.4021 and, if applicable, through other salary reductions authorized under Section 21.4022, to limit the number of district employees who will be discharged or whose contracts will not be renewed.

(d) The explanation of the furlough program under Subsection (c)(2) must state the specific number of furlough days proposed to be required.

(e) The public and school district employees must be provided with an opportunity to comment at the public meeting required under Subsection (c).

(f) This section expires September 1, 2013.

() On page 7, line 12, strike "shall" and substitute "may".

() Strike page 8, line 27, through page 10, line 27, and substitute the following appropriately numbered SECTION:

SECTION _____. Section 25.112, Education Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) This subsection applies only to the 2011-2012 and 2012-2013 school years. Notwithstanding any other provision of this section, the commissioner, on application of a school district, shall except the district from the limit in Subsection (a) for a school year for which the commissioner certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year. This subsection expires September 1, 2013.

() Strike page 11, line 22, through page 12, line 13.

() Strike page 13, line 20, through page 14, line 5, and substitute the following appropriately numbered SECTION:

SECTION _____. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.009 to read as follows:

Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Not later than June 1 of 2011 and 2012, the commissioner shall determine for each school district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010-2011 school year. If the amount estimated to be provided is less, the commissioner shall certify the percentage decrease in funding to be provided to the district.

(b) In making the determinations regarding funding levels required by Subsection (a), the commissioner shall:

(1) make adjustments as necessary to reflect changes in a school district's maintenance and operations tax rate;

(2) for a district required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level, base the determinations on the district's net funding levels after deducting any amounts required to be expended by the district to comply with Chapter 41; and

(3) determine a district's weighted average daily attendance in accordance with this chapter as it existed on January 1, 2011.

(c) This section expires September 1, 2013.

() Strike page 22, line 12, through page 24, line 25.

() Strike page 25, lines 23-26.

Pursuant to Rule 5, Section 28 of the House Rules, Representative Aycock requested an extension of speaking time on Amendment No. 2.

The request was granted by (Record 827): 126 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias;

Fletcher; Frullo; Gallego; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Veasey; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Callegari; Geren; Hilderbran; Legler; Truitt.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Farrar; Flynn; Garza; Giddings; Hopson.

Absent — Alvarado; Bonnen; Crownover; Eissler; Harless; Landtroop; Ritter; Taylor, L.; Turner; Villarreal; Walle.

STATEMENT OF VOTE

When Record No. 827 was taken, I was attending a committee meeting. I would have voted yes.

Harless

Representative Eissler moved to table Amendment No. 2.

The motion to table prevailed by (Record 828): 74 Yeas, 51 Nays, 3 Present, not voting.

Yeas — Aliseda; Anchia; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Button; Carter; Chisum; Christian; Cook; Creighton; Crownover; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kuempel; Larson; Laubenberg; Legler; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Vo; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anderson, R.; Brown; Burnam; Castro; Craddick; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Frullo; Gallego; Gonzalez; Gooden; Gutierrez; Hamilton; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Johnson; Keffer; Kolkhorst; Landtroop; Lavender; Lewis; Lozano; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Ritter; Strama; Thompson; Turner; Villarreal; Walle; White.

Present, not voting — Mr. Speaker; Darby(C); Reynolds.

Absent, Excused — Bohac; Farrar; Flynn; Garza; Giddings; Hopson.

Absent — Cain; Callegari; Coleman; Dutton; Farias; Geren; Gonzales, V.; Guillen; King, T.; Margo; Marquez; Menendez; Oliveira; Perry; Rodriguez; Veasey.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 828. I intended to vote no.

Anchia

When Record No. 828 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

I was shown voting yes on Record No. 828. I intended to vote no.

Carter

When Record No. 828 was taken, I was in the chair and shown voting present, not voting. I intended to vote no.

Darby

When Record No. 828 was taken, I was temporarily out of the house chamber attending a State Affairs Committee meeting. I would have voted no.

Geren

I was shown voting yes on Record No. 828. I intended to vote no.

S. King

When Record No. 828 was taken, my vote failed to register. I would have voted no.

Menendez

When Record No. 828 was taken, I was in the house but away from my desk. I would have voted no.

Oliveira

I was shown voting present, not voting on Record No. 828. I intended to vote no.

Reynolds

I was shown voting yes on Record No. 828. I intended to vote no.

Vo

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on State Affairs:

Cook on motion of Thompson.

Craddick on motion of Thompson.

Frullo on motion of Thompson.
Gallego on motion of Thompson.
Geren on motion of Thompson.
Harless on motion of Thompson.
Hilderbran on motion of Thompson.
Menendez on motion of Thompson.
Oliveira on motion of Thompson.
Sheets on motion of Thompson.
Smithee on motion of Thompson.
Solomons on motion of Thompson.

CSHB 400 - (consideration continued)

Amendment No. 3

Representative Patrick offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Eissler to **CSHB 400** (house committee report) as follows:

(1) On page 2 of the amendment, line 20, strike "class" and substitute "general education class".

(2) On page 2 of the amendment, line 22, strike "classes" and substitute "general education classes".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Patrick offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 to **CSHB 400** by Shelton by inserting the following at the end of the amendment:

(c) Any reduction under this section in the amount of the annual salary paid to a classroom teacher, counselor, librarian, school nurse, or campus-level or district-level administrator must be equally distributed over the course of the employee's current contract with the district.

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Strama offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Eissler to **CSHB 400** as follows:

(1) On page 2, line 9, of the amendment, between "SECTION ____." and "Section 25.112", insert "Effective September 1, 2011."

(2) On page 2 of the amendment, at the end of line 30, insert "This subsection and Subsection (d-1) expire September 1, 2014.".

(3) Insert the following item into the amendment, appropriately numbered:

() Add the following appropriately numbered SECTION to the bill:

SECTION _____. Effective September 1, 2014, Section 25.112(d), Education Code, is amended to read as follows:

(d) On application of a school district, the commissioner may except the district from the limit in Subsection (a) if the commissioner finds the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

(4) On page 2, of the amendment, strike line 31 and substitute the following appropriately numbered item:

() Strike SECTION 15 of the bill (page 10, lines 7-27).

(5) Strike page 3, lines 1-17 of the amendment.

Amendment No. 5 was withdrawn.

(Cook, Craddick, Gallego, Geren, Menendez, and Oliveira now present)

Amendment No. 6

Representative Shelton offered the following amendment to Amendment No. 1:

Amend **CSHB 400** (house committee report) by inserting into the bill the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.4033 to read as follows:

Sec. 21.4033. REDUCTIONS IN SALARIES OF CLASSROOM TEACHERS AND OTHER DISTRICT EMPLOYEES. (a) This section applies only to a widespread reduction in the amount of the annual salaries paid to school district classroom teachers based primarily on district financial conditions rather than on teacher performance.

(b) For any school year in which a school district has reduced the amount of the annual salaries paid to district classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district counselor, librarian, school nurse, and school-level or district-level administrator by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Amendment No. 6 was withdrawn.

Amendment No. 7

Representative Patrick offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Eissler to **CSHB 400** (house committee report) by inserting the following appropriately numbered item to the amendment and renumbering subsequent items in the amendment accordingly:

() Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.105(a), Education Code, is amended to read as follows:

(a) A teacher employed under a probationary contract for the following school year may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written resignation not later than the 30th ~~[45th]~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

SECTION _____. Section 21.160(a), Education Code, is amended to read as follows:

(a) A teacher employed under a continuing contract may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written resignation not later than the 30th ~~[45th]~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at time of mailing.

SECTION _____. Section 21.210(a), Education Code, is amended to read as follows:

(a) A teacher employed under a term contract with a school district may relinquish the teaching position and leave the employment of the district at the end of a school year without penalty by filing a written resignation with the board of trustees or the board's designee not later than the 30th ~~[45th]~~ day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Strama offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Eissler to **CSHB 400** as follows:

(1) On page 2, line 9, of the amendment, between "SECTION ____." and "Section 25.112", insert "Effective September 1, 2011."

(2) On page 2 of the amendment, at the end of line 30, insert "This subsection and Subsection (d-1) expire September 1, 2014.".

(3) Insert the following item into the amendment, appropriately numbered:

(____) Add the following appropriately numbered SECTION to the bill:

SECTION _____. Effective September 1, 2014, Section 25.112(d), Education Code, is amended to read as follows:

(d) On application of a school district, the commissioner may except the district from the limit in Subsection (a) if the commissioner finds the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

(4) On page 2, of the amendment, strike line 31 and substitute the following appropriately numbered item:

(____) Strike SECTION 15 of the bill (page 10, lines 7-27).

(5) Strike page 3, lines 1-17 of the amendment.

Amendment No. 8 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Coleman on motion of Walle.

(Solomons now present)

CSHB 400 - (consideration continued)

Amendment No. 1, as amended, was adopted.

Amendment No. 9

Representative Farias offered the following amendment to **CSHB 400**:

Amend **CSHB 400** as follows:

1. On page 21, line 8 strike "considers it appropriate" and insert "determines that the district's projected outlays for a fiscal year will exceed the district's projected revenues"

2. On page 21, line 10, between the period and "The", insert "Notice under this subsection must include a statement approved by the board detailing the nature and expected duration of the financial exigency."

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Eissler offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee report) as follows:

(1) On page 24, line 18, strike Subsection (a)(4) and renumber the remaining subdivisions of Subsection (a) accordingly.

(2) Insert the following appropriately numbered SECTION into the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.4031, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) In this section, "service[~~is~~":

~~[(1) "Salary schedule" means the minimum salary schedule under Section 21.402 or a comparable salary schedule used by a school district that specifies salary amounts based on an employee's level of experience.~~

~~[(2) "Service]~~ record" means a school district document that indicates the total years of service provided to the district by a classroom teacher, librarian, counselor, or nurse.

(c) If a school district fails to provide an individual's service record as required by Subsection (b), the agency shall, to the extent that information is available to the agency, provide the employing school district with the information ~~[sufficient to enable the district to determine proper placement of the individual on the district's salary schedule].~~

(d) The commissioner shall adopt rules for determining the experience as a classroom teacher, librarian, counselor, or nurse for a school district for which an individual is to be given credit for years of service for purposes of a service record. Each district shall maintain service records in accordance with commissioner rules adopted under this subsection. A district is not required to use commissioner rules adopted under this subsection in creating a local compensation plan under Section 21.4032.

Amendment No. 10 was adopted.

Amendment No. 11

Representative White offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) as follows:

(1) On page 6, line 11, strike "21.206(a), Education Code, is amended" and substitute "21.206, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1)".

(2) On page 6, strike lines 13-16, and substitute the following:

(a) Not later than the ~~[45th day before the]~~ last day of instruction in a school year, the board of trustees shall notify in writing each classroom teacher, counselor, nurse or other full-time professional employee who is required to hold a certificate issued under Subchapter B whose contract is about to expire whether the board proposes to renew or not renew the contract. The notice must

(3) On page 6, between lines 21 and 22, insert the following:

(a-1) A school district may not renew the contract of a district-level administrator before all district classroom teachers have been notified as to whether their contracts will be renewed or not renewed. A school district may not renew the contract of a campus-level administrator before all classroom teachers at the campus of the administrator have been notified as to whether their contracts will be renewed or not renewed.

(4) On page 7, lines 14 and 15, strike "and full-time school nurses" and substitute "full-time school nurses, and campus-level and district-level administrators".

(5) On page 8, between lines 26 and 27, insert the following:

(f) In developing a plan under this section, a school district shall form a committee to determine the compensation of the superintendent and each district principal. The committee should include local community leaders, district instructional staff, members of the board of trustees of the district, parents and other people determined by the board. The board of trustees must approve the superintendent's compensation determined under this section.

Amendment No. 11 was withdrawn.

Amendment No. 12

Representative Aycock offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) as follows:

(1) Strike SECTION 10 of the bill (page 6, line 22, through page 7, line 8).

(2) Insert into the bill the following appropriately numbered new SECTIONS:

SECTION _____. Subchapter C, Chapter 21, Education Code, is amended by adding Section 21.1041 to read as follows:

Sec. 21.1041. HEARING UNDER PROBATIONARY CONTRACT. A teacher is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.104; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board of trustees of the district, if the teacher is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

SECTION _____. Section 21.159(b), Education Code, is amended to read as follows:

(b) A teacher who notifies the board of trustees within the time prescribed by Subsection (a) is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.156; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board, if the teacher is protesting proposed action under Section 21.157 or proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

SECTION _____. Section 21.207, Education Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) The board of trustees may designate an attorney licensed to practice law in this state to hold the hearing on behalf of the board, to create a hearing record for the board's consideration and action, and to recommend an action to the board. The attorney serving as the board's designee may not be employed by a school district and neither the designee nor a law firm with which the designee is associated may be serving as an agent or representative of a school district, of a teacher in a dispute between a district and a teacher, or of an organization of school employees, school administrators, or school boards of trustees. Not later than the 15th day after the completion of the hearing under this subsection, the board's designee shall provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed. The board shall consider the record of the hearing and the designee's recommendation at the first board meeting for which notice can be posted in compliance with Chapter 551, Government Code, following the receipt of the

record and recommendation from the board's designee, unless the parties agree in writing to a different date. At the meeting, the board shall consider the hearing record and the designee's recommendation and allow each party to present an oral argument to the board. The board by written policy may limit the amount of time for oral argument. The policy must provide equal time for each party. The board may obtain advice concerning legal matters from an attorney who has not been involved in the proceedings. The board may accept, reject, or modify the designee's recommendation. The board shall notify the teacher in writing of the board's decision not later than the 15th day after the date of the meeting.

(c) At the hearing before the board or the board's designee, the teacher may:

- (1) be represented by a representative of the teacher's choice;
- (2) hear the evidence supporting the reason for nonrenewal;
- (3) cross-examine adverse witnesses; and
- (4) present evidence.

SECTION _____. Section 21.251, Education Code, is amended to read as follows:

Sec. 21.251. APPLICABILITY. (a) This subchapter applies if a teacher requests a hearing after receiving notice of the proposed decision to:

(1) terminate the teacher's continuing contract at any time, except as provided by Subsection (b)(3);

(2) terminate the teacher's probationary or term contract before the end of the contract period, except as provided by Subsection (b)(3); or

(3) suspend the teacher without pay.

(b) This subchapter does not apply to:

(1) a decision to terminate a teacher's employment at the end of a probationary contract; ~~[or]~~

(2) a decision not to renew a teacher's term contract, unless the board of trustees of the employing district has decided to use the process prescribed by this subchapter for that purpose; or

(3) a decision, on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, to terminate a probationary or term contract before the end of the contract period or to terminate a continuing contract at any time, unless the board of trustees has decided to use the process prescribed by this subchapter for that purpose.

(3) Renumber SECTIONS of the bill appropriately.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Patrick offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) by striking SECTION 10 of the bill (page 6, line 22 through page 7, line 8) and renumbering subsequent SECTIONS of the bill accordingly.

Amendment No. 13 was withdrawn.

Amendment No. 14

Representative Zedler offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) on page 8, between lines 26 and 27, by inserting the following:

(f) A plan adopted under Subsection (a) may provide for a classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse employed by the school district to receive an amount in salary or compensation for a school year that is less than the amount in salary or compensation received by that employee for the preceding school year, if:

(1) the reduction is for the purpose of minimizing the extent of an overall reduction in the number of the district's employees; and

(2) an equal percentage reduction in salary or compensation is imposed on all other school employees, as defined by Section 22.002(a).

Amendment No. 14 was withdrawn.

Amendment No. 15

Representative Veasey offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) on page 8, between lines 26 and 27, by inserting the following:

(f) A plan adopted under Subsection (a) must make public the compensation of the superintendent, including any allotments for transportation, housing, travel, and retirement.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Weber offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) as follows:

(1) On page 9, between lines 7 and 8, insert the following appropriately numbered SECTION into the bill:

SECTION _____. Section 22.0512(a), Education Code, is amended to read as follows:

(a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's objectively reasonable use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(2) On page 25, between lines 2 and 3, insert the following appropriately numbered SECTION into the bill:

SECTION _____. Section 22.0512(a), Education Code, as amended by this Act, applies only to a school district employee disciplinary proceeding for conduct that occurs on or after September 1, 2011. A school district employee disciplinary proceeding for conduct that occurs before September 1, 2011, is governed by the law in effect on the date the conduct occurs, and that law is continued in effect for that purpose.

(3) Renumber SECTIONS of the bill appropriately.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Walle offered the following amendment to **CSHB 400**:

Amend **CSHB 400** on page 9, line 19, by striking "district-wide" and inserting "campus-wide".

Representative Eissler moved to table Amendment No. 17.

(Frullo, Harless, Hilderbran, and Sheets now present)

The motion to table prevailed by (Record 829): 92 Yeas, 45 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Anderson, R.; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Coleman; Farrar; Flynn; Garza; Giddings; Hopson.

Absent, Excused, Committee Meeting — Smithee.

Absent — Legler; Marquez; Woolley.

STATEMENT OF VOTE

When Record No. 829 was taken, I was in the house but away from my desk. I would have voted no.

Marquez

Amendment No. 18

Representative Martinez offered the following amendment to **CSHB 400**:

Amend **CSHB 400** on page 9, line 21 by striking "25" and substituting "23".

Amendment No. 18 was withdrawn.

Amendment No. 19

Representative Martinez offered the following amendment to **CSHB 400**:

Amend **CSHB 400** as follows:

1. Strike SECTION 14 of the bill.
2. On page 10, strike lines 21-22 and renumber accordingly.

Representative Crownover moved to table Amendment No. 19.

The motion to table prevailed by (Record 830): 86 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lyne; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lewis; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Coleman; Farrar; Flynn; Garza; Giddings; Hopson.

Absent, Excused, Committee Meeting — Smithee.

Absent — Branch; Legler; Madden.

STATEMENT OF VOTE

When Record No. 830 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

Amendment No. 20

Representative Martinez offered the following amendment to **CSHB 400**:

Amend **CSHB 400** on page 9, line 21 by striking "25" and substituting "23".

Representative Crownover moved to table Amendment No. 20.

The motion to table prevailed by (Record 831): 90 Yeas, 48 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crossover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Legler; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Coleman; Farrar; Flynn; Garza; Giddings; Hopson.

Absent, Excused, Committee Meeting — Smithee.

Absent — Castro; Riddle.

Amendment No. 21

Representative Martinez offered the following amendment to **CSHB 400**:

Amend **CSHB 400** on page 9, line 21 by striking "25" and substituting "24".

Representative Crossover moved to table Amendment No. 21.

(Smithee now present)

The motion to table prevailed by (Record 832): 94 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crossover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle;

Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Johnson; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Coleman; Farrar; Flynn; Garza; Giddings; Hopson.

Absent — Guillen; King, T.; Pickett.

Amendment No. 22

Representatives Bonnen and R. Anderson offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee report) as follows:

(1) Between page 10, line 27 and page 11, line 1, add the following appropriately numbered SECTION to the bill:

SECTION _____. Section 28.004(k), Education Code, is amended to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(l); and

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities[; ~~and~~

~~[(3) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year].~~

(2) On page 12, strike lines 14-22.

(3) On page 24, line 23, strike "and".

(4) On page 24, line 24, strike the period and substitute "; and".

(5) On page 24, between lines 24 and 25, insert the following:

(11) Subchapter C, Chapter 38.

(6) Renumber the SECTIONS of the bill accordingly.

Amendment No. 22 was adopted. (Hartnett recorded voting no.)

Amendment No. 23

Representative Farias offered the following amendment to **CSHB 400**:

Amend **CSHB 400** as follows:

1. On page 21, line 8 strike "considers it appropriate" and insert "determines that the district's projected outlays for a fiscal year will exceed the district's projected revenues"

2. On page 21, line 10, between the period and "The", insert "Notice under this subsection must include a statement approved by the board detailing the nature and expected duration of the financial exigency."

Amendment No. 23 was adopted.

Amendment No. 24

Representative Veasey offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 28.002(1-2), Education Code, is amended to read as follows:

(1-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district shall ~~may~~ use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).

Representative Eissler moved to table Amendment No. 24.

The motion to table prevailed by (Record 833): 99 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Frullo; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker; Darby(C).

Absent, Excused — Bohac; Coleman; Farrar; Flynn; Garza; Giddings; Hopson.

Absent — Aycock.

Amendment No. 25

Representative Isaac offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) by inserting the following appropriately numbered SECTIONS into the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 361.425(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A state agency, state court or judicial agency, a university system or institution of higher education, a county, municipality, ~~[school district,~~] or special district other than a school district shall:

(1) in cooperation with the comptroller or the commission establish a program for the separation and collection of all recyclable materials generated by the entity's operations, including, at a minimum, aluminum, steel containers, aseptic packaging and polycoated paperboard cartons, high-grade office paper, and corrugated cardboard;

(2) provide procedures for collecting and storing recyclable materials, containers for recyclable materials, and procedures for making contractual or other arrangements with buyers of recyclable materials;

(3) evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled; and

(4) establish educational and incentive programs to encourage maximum employee participation.

(b) The commission by order shall exempt a ~~[school district or a]~~ municipality with a population of less than 5,000 from compliance with this section if the commission finds that compliance would work a hardship on ~~[the district or]~~ the municipality. The commission shall adopt rules for administering this subsection.

SECTION _____. Sections 361.426(a) and (d), Health and Safety Code, are amended to read as follows:

(a) A state agency, state court, or judicial agency not subject to Subtitle D, Title 10, Government Code, a county, municipality, ~~[school district,]~~ junior or community college district, or special district other than a school district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality.

(d) The commission by order shall exempt a ~~[school district or a]~~ municipality with a population of less than 5,000 from compliance with this section if the commission finds that compliance would work a hardship on ~~[the district or]~~ the municipality. The commission shall adopt rules for administering this subsection.

Amendment No. 25 was adopted. (Strama recorded voting no.)

(Speaker in the chair)

CSHB 400 - POINT OF ORDER

Representative Miles raised a point of order against further consideration of **CSHB 400** under Rule 4, Section 11, Rule 4, Section 12, and Rule 4, Section 18 of the House Rules on the grounds that proper notice of the committee meeting was not given, the committee meeting was not open to the public, and the committee minutes are incomplete.

The speaker overruled the point of order.

Amendment No. 26

Representative Bonnen offered the following amendment to **CSHB 400**:

Amend **CSHB 400** (house committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 11.253(d), Education Code, is amended to read as follows:

(d) Each campus improvement plan must:

(1) assess the academic achievement for each student in the school using the student achievement indicator system as described by Section 39.053;

(2) set the campus performance objectives based on the student achievement indicator system, including objectives for special needs populations, including students in special education programs under Subchapter A, Chapter 29;

(3) identify how the campus goals will be met for each student;

(4) determine the resources needed to implement the plan;

(5) identify staff needed to implement the plan;

(6) set timelines for reaching the goals;

(7) measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement;

(8) include goals and methods for violence prevention and intervention on campus; and

(9) provide for a program to encourage parental involvement at the campus~~;~~and

~~[(10) if the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:~~

~~[(A) student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;~~

~~[(B) student academic performance data;~~

~~[(C) student attendance rates;~~

~~[(D) the percentage of students who are educationally disadvantaged;~~

~~[(E) the use and success of any method to ensure that students participate in moderate to vigorous physical activity as required by Section 28.002(l); and~~

~~[(F) any other indicator recommended by the local school health advisory council].~~

SECTION _____. Section 28.004(c), Education Code, is amended to read as follows:

(c) The local school health advisory council's duties include recommending:

(1) the number of hours of instruction to be provided in health education;

(2) curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, and Type 2 diabetes through coordination of:

(A) health education;

(B) physical education and physical activity;

(C) nutrition services;

(D) parental involvement; and

(E) instruction to prevent the use of tobacco; and

(3) appropriate grade levels and methods of instruction for human sexuality instruction[; and

~~[(4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:~~

~~[(A) school health services;~~

~~[(B) counseling and guidance services;~~

~~[(C) a safe and healthy school environment; and~~

~~[(D) school employee wellness].~~

SECTION _____. Section 38.104(c), Education Code, is amended to read as follows:

(c) Not later than September 1 of each year, the agency shall report the findings of the analysis under this section of the results obtained during the preceding school year to the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, for use by the committee in[:

~~[(1) assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section 38.014; and~~

~~[(2)]~~ developing recommendations for modifications to the health and physical education ~~[coordinated health program requirements or related]~~ curriculum in public schools.

SECTION _____. Section 1001.0711(a), Health and Safety Code, is amended to read as follows:

(a) The commission by rule shall establish a School Health Advisory Committee at the department to provide assistance to the council in establishing a leadership role for the department in support for and delivery of ~~[coordinated school health programs and]~~ school health services.

(2) On page 24, line 23, strike "and".

(3) On page 24, line 24, strike "(10) Section 30.102(b)." and substitute the following:

(10) Section 30.102(b);

(11) Section 38.013; and

(12) Section 38.014.

CSHB 400 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 400** under Rule 4, Section 18(a), Rule 4, Section 40, and Rule 12, Section(1)(a)(1)(A) of the House Rules.

FIVE-DAY POSTING RULE SUSPENDED

Representative Hilderbran moved to suspend the five-day posting rule to allow the Committee on Ways and Means to consider **SB 540** at 2 p.m. or upon final adjournment/recess Monday, May 9 in E2.014.

The motion prevailed.

Representative Cook moved to suspend the five-day posting rule to allow the Committee on State Affairs to consider **SB 15** upon final adjournment/recess Monday, May 9 in JHR 140.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Ways and Means, 2 p.m. or upon final adjournment/recess Monday, May 9, E2.014, for a public hearing, to consider **SB 540** and the posted agenda.

State Affairs, upon final adjournment/recess Monday, May 9, JHR 140, for a public hearing, to consider **SB 15**.

Criminal Jurisprudence, 8:30 a.m. tomorrow, 3W.9, for a formal meeting, to consider pending business.

ADJOURNMENT

Representative Anchia moved that the house adjourn until 10 a.m. tomorrow in memory of the Honorable Joe E. Moreno of Houston.

The motion prevailed.

The house accordingly, at 11:29 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 22

HB 558, HB 600, HB 801, HB 1551, HB 1944

House List No. 23

HCR 148

Senate List No. 23

SB 782, SB 894

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 6, 2011

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 148 Flynn SPONSOR: Van de Putte
Requesting that the Governor return House Bill No. 74 to the House of Representatives.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 6, 2011 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 46 Menendez SPONSOR: Hinojosa
Relating to compensatory time off for certain employees of the Parks and Wildlife Department.

HB 1032 Smithee SPONSOR: Davis
Relating to a rescission period for annuity contracts.

HB 1346 Guillen SPONSOR: Zaffirini
Relating to the consistent use of the term "game warden" throughout the Parks and Wildlife Code.

HB 1625 Brown SPONSOR: Carona
Relating to the renewal of electrical sign apprentice licenses.

SB 1113 Wentworth
Relating to certain contracts entered into by school districts for another entity to provide food services at one or more district schools.

SB 1214 Patrick
Relating to equal opportunity for access by private and parochial school students to certain University Interscholastic League sponsored activities.

SB 1417 Hinojosa
Relating to the limitation of liability of certain landowners.

SB 1543 Wentworth
Relating to the authority of an independent school district to invest in corporate bonds.

SB 1729 Zaffirini
Relating to the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program.

SB 1806 Lucio
Relating to timely filing of a surplus lines policy; providing penalties.

SB 1905 Uresti
Relating to the provision of emergency services in certain rural counties using admission fees charged at state parks.

SCR 54 Fraser
In memory of Gregory Mack Simmons.

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1420
Senate Conferees: Hinojosa - Chair/Hegar/Nelson/Nichols/Williams

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 18 (30 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 6, 2011 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 546 Deuell
Relating to the dispensing of certain drugs by physicians.

SB 1584 Ogden
Relating to state fiscal matters related to natural resources and the environment.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 5

Agriculture and Livestock - **HB 2994, HB 2996, HB 2997, HB 3199, SB 1157**

Business and Industry - **HB 2611**

Corrections - **HB 3829, SB 880, SB 953**

Criminal Jurisprudence - **HB 473, HB 3474, HB 3746, SB 198, SB 316, SB 1024, SB 1680**

Economic and Small Business Development - **SB 1047**

Energy Resources - **HB 3105**

Government Efficiency and Reform - **HB 1982, HB 2291, HB 3168**

Higher Education - **HB 537, HB 1585, HB 3624**

Homeland Security and Public Safety - **HB 1583, SB 132, SB 1065, SB 1378, SB 1400**

Human Services - **SB 77, SB 260, SB 434**
Insurance - **HB 2408, HB 3005, SB 647, SB 1229, SB 1433**
Judiciary and Civil Jurisprudence - **HB 274, HB 2557**
Licensing and Administrative Procedures - **HB 3125**
Natural Resources - **SB 341, SJR 4, SJR 28**
Public Education - **HB 677, SB 54, SB 778, SB 1788**
Public Health - **HB 2369**
State Affairs - **HB 301, HB 2373**
Transportation - **HB 2884, HB 2897, SB 1104**
Urban Affairs - **HB 1684, HB 1818, HB 2076, HB 2082, HB 2601, HB 2852, HB 3559, HB 3736**
Ways and Means - **HB 590, HB 2049, HB 2383, HB 3275**

ENGROSSED

May 5 - HB 8, HB 257, HB 300, HB 442, HB 528, HB 742, HB 961, HB 1009, HB 1389, HB 1395, HB 1720, HB 1723, HB 1942, HB 1992, HB 2077, HB 2366, HB 2470, HB 2599, HB 2663, HB 2671, HB 2735, HB 2761, HB 2826, HB 2902, HB 2940, HB 2949, HB 2969, HB 2973, HB 3096, HB 3182, HB 3311, HB 3346, HB 3395, HB 3468, HB 3506, HB 3573

ENROLLED

May 5 - HB 905, HB 1808, HCR 9, HCR 104, HCR 105, HCR 106, HCR 107, HCR 108, HCR 111, HCR 112, HCR 113

SENT TO THE GOVERNOR

May 5 - HB 905, HB 1808, HCR 9, HCR 104, HCR 105, HCR 106, HCR 107, HCR 108, HCR 111, HCR 112, HCR 113

RECOMMENDATIONS FILED WITH THE SPEAKER

May 5 - HB 3857

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

SUPPLEMENT

SEVENTIETH DAY — FRIDAY, MAY 6, 2011

CSHB 12 DEBATE - SECOND READING

REPRESENTATIVE SOLOMONS: What I plan on doing is laying out this bill for a bit and trying to go through it. And, obviously, there's a bunch of amendments, and I'll be happy to take questions, and if you need to extend time at least once, I'll be happy to do that. But what I'd like to do is just put some answers to questions that had been percolating for awhile by various news media and others. And so I thought I would lay out the bill a little differently by sort of answering questions I've been asked by a variety of folks out beyond the walls of this body and this chamber. One of the questions is that why is this bill necessary? The bill relates to the enforcement of state and federal laws governing immigration by certain governmental entities. It's common term is sanctuary city type issues.

But the answer to the question why is this bill necessary? This bill will create, in fact, a uniform standard for how law enforcement will work with the Federal Immigration Enforcement Department. Local law enforcement agencies have an obligation to assist local and federal laws, and this bill will help make sure that the law enforcement agencies live up to that obligation and don't get to pick and choose which laws they will enforce. And by creating a uniform standard statewide for how such laws will be interpreted, we promulgate safer streets and neighborhoods.

Another question would have been, would this undermine public safety? Would this bill undermine public safety? My response to that is on the contrary. This law will reinstate trust in our law enforcement entities. If cities, counties, et cetera, have a reputation for picking and choosing which laws they will enforce, how can we expect the public to trust them to do their jobs? And another response to that is also if there is a consistent standard across the state, the public can be sure that law enforcement is doing what they're supposed to do.

Another question that had come up is will this bill drive resources away from protecting against serious crime? And my response to that is no. It simply prevents cities and officers from turning a blind eye to violators of federal law. This law, should we pass it, leaves it to the discretion of an arresting officer to ask about immigration status after a lawful arrest or lawful detention, based on a suspected or actual state or local law violation. The situation would not violate the rule, order, ordinance or policy portion of the bill as it is specific to one situation. Additionally, it is not a consistent action of a policy to prohibit because it is case specific.

Another question has come up by some folks that would be, would this bill discourage immigrant victims and witnesses from helping the police? And my response is no. Again, this only applies to someone who's been detained or arrested for a violation of a local or state law. As they do not fall into that category, so they would not be asked about their immigration status. This bill does not place an unfunded mandate on cities. There is not one requirement in this bill placed on a governmental entity. As long as local governments do not make it a policy to forego state and federal laws, this bill will not affect them. I will tell you that there hasn't been one city, one county, one police department, one anybody coming and seeing me in my office and saying we're really a sanctuary-type entity and we really have a problem with the bill. All of the denial ever having—any policy ever having anything to do with any sanctuary type policy.

The legislation does create a uniform standard across the state when it comes to inquiring about immigration status. Put it simply, law enforcement officers in any position within the state should have the ability to ask about immigration if they see it as necessary to investigating a crime. Peace officers at schools are no exceptions. Additionally, this bill allows enforcement of this law through the AG's office. And we have set up a process which we think is fair and reasonable and provides opportunities for discussion before even any court action, and hopefully most of those will be resolved because, as I said, no one says they're doing anything wrong.

REPRESENTATIVE MARTINEZ FISCHER: I rise to raise a point of order on consideration of **HB 12** under Rule 4, Section 20(a)(2).

CHAIR (Bonnen in the chair): Bring your point down front.

SPEAKER STRAUS: Members, we're going to begin again, and the Representative Martinez Fischer point of order is respectfully overruled. I'm sure Representative Martinez Fischer will prefer this to be read into the journal. We'll now have the clerk read this into the journal.

READING CLERK: Representative Martinez Fischer raises a point of order under Rule 4, Section 20. Representative Martinez Fischer provides one witness affirmation form that's entirely blank under the line entry of a telephone number. Mr. Martinez Fischer states that the other forms may contain the same defect. A similar point was considered in **HB 2292**, 78th Regular Session. In that case, two witness affirmation forms were left entirely blank or had an entry non-available. The speaker in that case tells that if there was a specific form to allow an insufficient—sufficient information to allow interested parties to contact the witness regarding testimony given by a witness during a committee hearing. The purpose of the rule has been complied with. In this case, as in the ruling on **HB 2292**, the witness provided a complete mailing address was sufficient for the purpose of the rule to be satisfied. Accordingly, the point of order is respectfully overruled.

SPEAKER: Mr. Martinez Fischer, for what purpose?

MARTINEZ FISCHER: Parliamentary inquiry.

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Under the rules of the chair, is it my understanding that the chair is departing from the Danburg precedent that was established in the 97 session that said that an address and one phone number was sufficient under the purpose of the rule to be satisfied?

SPEAKER: The chair is continuing to follow the precedent from the 78th Legislature.

MARTINEZ FISCHER: Okay. And in so doing so, Mr. Speaker, does that mean that the precedence of the 1997 legislative session is no longer applicable for that particular point? So, in other words, to spare the body of any future delay unnecessarily, when contemplating witness affirmation forms for information such as an address and phone number, that they would be advised to depart from the 75th Legislature, the Laney precedent, and instead, just focus on the precedent of the 78th Legislature under the Craddick precedent. Is that what the chair's intent is?

SPEAKER: The chair's advice would be to follow this precedent.

MARTINEZ FISCHER: This precedent that you just established today?

SPEAKER: That's correct.

MARTINEZ FISCHER: And in so doing, it's inconsistent with the precedent of the 78th Session. So, in essence, the 75th Legislative Session precedent is no longer applicable, insofar as it pertains to witness affirmation forms for addresses and phone numbers?

SPEAKER: The chair's advice would be to follow the most recent ruling on that.

MARTINEZ FISCHER: Parliamentary inquiry.

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Can the chair articulate to me the order of priority in establishing precedential value? I'm advised that we have house precedents going back a very long time. So is the chair now saying we are to follow the most recent precedent at the exclusion of the prior precedent?

SPEAKER: The chair is saying it's applying the rules of the house.

MARTINEZ FISCHER: And I understand that.

SPEAKER: It's not practicing precedent. We're looking at the specific bill in front of us.

MARTINEZ FISCHER: I understand. But to be clear, the inquiry I had was for the chair to advise me as to how we should value house precedents? And my question is, under this ruling and under your prior statement, it leaves me with the impression that precedents of a more recent vintage seem to trump those of a prior session provided that the point of order is raised on a specific issue, whether it's two different resolutions or two different points of order.

SPEAKER: Mr. Martinez Fischer, we take each point of order as they come.

MARTINEZ FISCHER: And you certainly did. But in terms of making a ruling, I believe you said that you follow the most recent precedent. And I don't know if that's just for today. I don't know if that's just for this bill. I don't know if that's just for this rule. And so for the remaining days of the session, when parliamentary points of procedure are being raised, we could save a lot of time of the body if the chair is telling us that prior precedents are of little value, and that we should only look to the most recent precedent on point. Because I raise that because there was a distinction made between the '97 precedent and the precedent established in the 78th Legislature. And so it seems to me that they're both alive and well. The difference being in the most recent legislative session, the witness had mentioned that the phone number was non-applicable, thus signaling to the chair that perhaps there wasn't a phone number. And under today's point of order, we've established that the witness affirmation form has now changed. And that the witness affirmation form now requires the information, whereas, there was no prior requirement. And so I guess what I'm saying is we're looking at a precedent to an '03 session where that witness affirmation form is no longer in use. And we now have the same rule with a more concrete and specific form in terms of what's required. And we're applying the old ruling to a new form. And I'm concerned about that.

SPEAKER: Mr. Martinez Fischer, going back to the precedent cited in the 78th Legislature, there were two forms at issue. One was the form that you discussed, with the ambiguous entry that appears to be n/a. The other form was left entirely blank on the line for the entry with the telephone number.

MARTINEZ FISCHER: And under that—

SPEAKER: It is accepted in this case.

MARTINEZ FISCHER: And under that form, Mr. Speaker, was it required for the witness in 2003 to give their phone number? Was there a specific expressed statement that that information be given to the committee?

SPEAKER: The witness affirmation form in both places told the witness to complete the forms.

MARTINEZ FISCHER: Said to complete the form from each bill or resolution, correct?

SPEAKER: That's correct.

MARTINEZ FISCHER: And in the witness form that we have today, it says print clearly, you are required to complete sections 1 through 6. In parenthesis, fill out one form per bill or issue. It appears to me that the 2011 form is much more specific in its requirements than the form of '03. Unless I could be directed to a location on the '03 form where this was a requirement.

SPEAKER: Okay. Thank you, Mr. Martinez Fischer.

MARTINEZ FISCHER: Well, I was waiting for a response, Mr. Speaker, I'm sorry.

SPEAKER: The forms are different.

MARTINEZ FISCHER: And do you agree that the form that was in current use today places a higher standard on the assertion of information to the witness by imposing a requirement versus the option to fill it out for each bill or resolution?

SPEAKER: It's a different form whether it's a higher standard or not.

MARTINEZ FISCHER: Mr. Speaker, with all due respect, does the 2003 form place a requirement, expressed requirement, that the data be filled out in accordance with the form?

SPEAKER: Yes. They were required to complete the form.

MARTINEZ FISCHER: Would the chair indulge me and read that expressed requirement?

SPEAKER: It says please complete a separate form for each bill, resolution, or subject.

MARTINEZ FISCHER: Does it penalize or attempt to advise a witness that they could be prosecuted for failing to correctly put that information on the form?

SPEAKER: Both of the forms have statements that the witnesses have to certify to.

MARTINEZ FISCHER: I'm sorry?

SPEAKER: Both of them have statements that the witness has to certify to.

MARTINEZ FISCHER: That they're true and correct, correct?

SPEAKER: I'm sorry?

MARTINEZ FISCHER: That they have it to certify that the information is true and correct?

SPEAKER: Yes.

MARTINEZ FISCHER: Now, the form that's in practice today—do we place a higher standard on the information and the admonishments to the witnesses that are filling out those forms?

SPEAKER: The form today reminds them of the oath of perjury.

MARTINEZ FISCHER: Now, is it the chair's position that those who misstated their information on the '03 forms would be subject to prosecution by perjury?

SPEAKER: But neither form reminds the witness of other criminal penalties.

MARTINEZ FISCHER: I'm sorry?

SPEAKER: But neither form reminds the witnesses of other forms of criminal penalties.

MARTINEZ FISCHER: Neither form does?

SPEAKER: Of other criminal penalties.

MARTINEZ FISCHER: Well, I'm speaking only to the penalties of perjury. The specific penalty of perjury.

SPEAKER: Only one form does that.

MARTINEZ FISCHER: And which one is that?

SPEAKER: The current one.

MARTINEZ FISCHER: And so we placed a higher standard on the information, I guess for transparency, for members to have a right to know who is testifying, or members of the press that want to seek to inquire. And I even understand the House Research Organization uses this information to contact witnesses when they're forming their bill analysis for the House Research Organization floor report. And so if the chair follows my logic and says we've now placed a higher standard under an admonishment to the witness that they are swearing an oath under the penalties of perjury in the 2011 form, and we know that that's not in the '03 form. And the chair is willing to spot me that we've changed the standard there, I find it troubling that the chair will not equally concede that what we tell a witness in a 2011 form of what's required to be completed versus just complete in '03, that that is not a higher sense of standard, particularly, because failure to do so is a swearing under oath under the penalties of perjury that the information entered herein, and the testimony given, is true?

SPEAKER: Mr. Martinez Fischer, the chair has ruled on this point of order. I'd be happy to place your comments and your arguments in the journal.

MARTINEZ FISCHER: Well, I think calling a point of order is really one part of this affair, Mr. Speaker. And the other part of this affair is to understand it, and understand how it works, and understand how we use it going forward. As I'm certainly sure that the chair will concede that this point of order may come up in a subsequent point of order, maybe today, maybe next session, maybe two sessions from now. And so for the sake of the body and the institution that we both took an oath to preserve and protect, I think it's important that we have this discussion. And I'm not asking you to re-rule. I'm just asking to understand the ruling, and I think that the submission given to the journal clerk, or the reading clerk, just didn't satisfy the level that I think we need to be advised on how we apply the rules. And so my question, again, Mr. Speaker, is if you're willing to concede that the 2011 form places a higher standard of the information placed on the form to the extent that you could be penalized for perjury, then why is it okay to tell witnesses you could be penalized for not placing accurate information on here? But then on the other hand, if you don't put information on here that you're required to place, that we're going to let that go? And we're not going to enforce that under the rules of the house? And so why won't the chair concede that the information required in sections 1, 2, 3, 4, 5, and 6, which incidentally, there are only six sections on the form—when the first line in clear, unambiguous, bold print language, to print clearly, and to require the completions of those sections are we now saying that that's exactly as it was in '03, when it certainly isn't?

SPEAKER: Mr. Martinez Fischer, your point of order was respectfully overruled, and the chair will recognize Representative Solomons.

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry. I find that response to be non-responsive, and so, I'd like a response to my inquiry. Unless the chair is going to instruct me to sit down, under the rules of the house, and if the chairman

of House Administration is so inclined to remove me from this back mic and place me in the chair.

SPEAKER: Mr. Martinez Fischer, you've asked questions about parliamentary ruling, and we've tried to answer.

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry.

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Is there a time limit on my inquiry?

SPEAKER: No, there's not.

MARTINEZ FISCHER: There's nothing in the rule that says that I'm bound by five minutes, 10 minutes, or two hours of inquiry if I wanted to ask it, correct?

SPEAKER: We've tried to answer your inquiries as best that we could.

MARTINEZ FISCHER: And the ones that—

SPEAKER: It's the chair's intention to move on with this bill and recognize Representative Solomons.

MARTINEZ FISCHER: Mr. Speaker?

SPEAKER: Mr. Martinez Fischer.

MARTINEZ FISCHER: I raise another point of order on this bill under Rule 4, Section 20(a)(4).

SPEAKER: Bring your point of order down front.

SPEAKER: Representative Martinez Fischer raised a point of order under Rule 4, Section 20. The point of order is respectfully overruled.

SOLOMONS: Let's see, I almost forgot where we left off, but really, this bill has gotten a lot of, in my opinion, erroneous press, but at the end of the day, the bill is meant to bar and prohibit the enforcement of local governments from prohibiting the enforcement of state and federal immigration laws. It's meant to create a uniform standard across the state. And the idea that we're requiring police officers to do anything is erroneous. The fact that we're requiring almost anything is not accurate as to this bill. What we're trying to do, as I've said, have a uniform standard of not prohibiting our commissioned police officers from being able to investigate upon a detention or arrest. And that's basically what the bill is really trying to do.

REPRESENTATIVE WALLE: Mr. Speaker?

SPEAKER: Mr. Speaker, for what purpose?

SPEAKER: Will Chairman Solomons yield?

SOLOMONS: Not yet. I will be happy to later. If you really go through the bill, we set up a process so this entire subject matter can be finally resolved one way or the other. There's a whole lot of folks in the State of Texas that seem to think that a variety of governmental agencies have policies in place that do prohibit the enforcement of state and federal immigration laws, when in fact, we really don't

know that. There may be many people in certain parts of larger urban areas, for example where people seem to think that. It may be perception. It may be reality. But I don't know that. But I do know that we need to have a uniform, consistent policy around the State of Texas about this. And I think the mechanisms that we set up in the bill allow for that.

Now, there are going to be a number of amendments, and I appreciate all of the members who have an interest in it, filing whatever amendments they did, but at the end, I think we tried to, through the committee, in passing this out, we tried to exclude certain very specific issues involving schools. There is an amendment that's going to deal with health care. There is an amendment that's going to take place that's going to be set, the health care amendment is going to be acceptable to me. Hopefully, to the body, as well. There's going to be an amendment having to do with ensuring, even though there are a number of laws on the books already about racial profiling. There's an amendment by Mr. Gonzales, and I don't know, umpteen numbers of members who have signed onto that, including myself, to ensure in the statute itself that we deal with the issue of racial profiling. So at the end, one of the things that seem to come up, also, is somehow, that this is a situation that's going to just create all kinds of problems, when in fact, everyone I talked to, they say they don't have these policies. That nothing should really change then. So anyway, with the bill itself, all it really does is create a uniform standard, and also prohibits our commissioned police officers around the state from being told they have to pick and choose what laws to enforce. And specifically in this area, and I will be happy to yield to my good friend.

WALLE: I appreciate your talk to us earlier before you laid out the bill. I find you to be a sincere man, but you've got to understand that this bill is very personal for many of us in this body. Personal because it affects us, but let alone that it affects family members, constituents, back home. And one of the many questions –

SOLOMONS: In what way?

WALLE: Well, it's personal because if you want to talk about uniformity, how do we define what a sanctuary city is? It really dumbfounded many of us. How would we define a sanctuary city?

SOLOMONS: Well, whether it's a sanctuary city or any governmental agency, it's generally understood to mean that it's a governmental entity. It's an established policy from prohibiting police officers from enforcing immigration laws or cooperating with federal immigration officials. That's a common understanding of what the word sanctuary and sanctuary governmental entities are.

WALLE: Have we identified those sanctuary cities?

SOLOMONS: There are a number of people who believe that a number of cities in the State of Texas do that. I have no idea if they're actually doing that. Let me put it this way: I don't know that they actually have a policy that provides sanctuary in that regard as it's being understood. I will tell you, not one city official, not one police chief, not one sheriff, not one anybody, has come in and

said, hey, guess what? We're really a sanctuary—we have sanctuary city or sanctuary policy, and quite frankly, this bill is going to be prohibitive or really a problem for us. What they have said is somehow it's going to create all kind of problems. And I've been keeping up with the papers about this and the reports, and, you know, it's clear to me that when you have the city of San Antonio Police Chief William McManis, says that his department works a lot on smuggling cases, but doesn't go any further. And if I called upon us and said we need some backup because we're going down here on Laredo Street to the produce market, we're going to round up some illegal immigrants and we need some backup, not help, but backup, he says, we're not going to help. At the end of the day, I don't know that they have any formal policies, but the idea, even under federal laws, you're not supposed to interfere with the enforcement of the law.

WALLE: Okay. So, could you walk me through an initial stop, how would we determine, how would a police officer determine if, on a legitimate stop—how would we determine if somebody is here and documented, if that officer may or may not have training in federal immigration policies?

SOLOMONS: I don't know that you need federal training to ask somebody, if in fact, they deem it necessary, because we don't tell the officers what to do anyway. We allow an officer on a traffic stop, and I'm a former magistrate to the municipal judge. I'm pretty familiar with how city police officers do their job out on the street when they make a stop. And one of the things that they usually ask for, for example, is I'd like to see your license and let me see your insurance. You know, you understand, and I'm sure you do, that we have a law in this state that requires you to have insurance, correct?

WALLE: Correct.

SOLOMONS: Now, at the end of the day, there's nothing that says in the law that you have to ask that person, show me your insurance. Wait a minute. Let me finish. They generally ask it, but they don't have to. They don't have to write you a ticket. We don't have policies in place about how they do their job. We give that discretion to the police officer out in the field when they're investigating someone who's either stopped or is a criminal offense. And quite frankly, we don't ask the police officers generally by formal policies that, as far as I know any way, that they have to ask for insurance and they don't have to ask for insurance. They generally do it as a matter of course, but they don't always do it. There's nothing in this bill, you know and I know, you're an intelligent guy, there's nothing in this bill that requires that a police officer ask one question. Not one thing.

WALLE: So then why do we actually need the bill, then, if they're not going to be able to be required to ask these types of questions?

SOLOMONS: Let me ask this, do you want police officers to have to ask? Because this bill doesn't do it. Maybe we need other legislation.

WALLE: Okay. Where, particularly, does your bill specifically say that they're not required to ask immigration status on somebody?

SOLOMONS: This bill goes directly to the governmental entity itself and to the particular people who are a part of that process and the governmental entities, not to have policies that prohibit the discretion of police officers in enforcing the laws on the books involving federal or state immigration laws. That's all it does.

WALLE: What would be the fiscal note, particularly, for cities, such as the city of Houston that, I might add, runs two federal programs. The Houston Police Department runs Secure Communities, which is a database check, when they're arrested and detained and sent to the booking center, they are required to check a database.

SOLOMONS: What's your question?

WALLE: Through Secure Communities.

SOLOMONS: There's no fiscal note on this bill.

WALLE: There is no fiscal note. So how is it that our cities are going to pay for this type of new mandate that they're about to be—

SOLOMONS: There's no mandate. There is no requirement that they do anything other than not have policy that, in effect, prevent our police officers, commissioned police officers, from doing their job. That's all this bill does. There's no mandate. There's no fiscal note. There's nothing involving that. It just says you shouldn't do it. And besides that, it seems to me that the policies in the bill itself allow for determination, whether or not, for example, Houston, or Dallas, or anybody else has one. If somebody perceives it, they produce evidence to the Attorney General's office, they can try to work that out and see if there is a policy. If, in fact, we provide a judicial mechanism to allow for that to be a final determination. If a judicial determination is necessary. If it's not a problem, then so be it. If there is a problem, then so be it there, too.

WALLE: Do you think that our officers are going to have to get new training in reference to your bill?

SOLOMONS: Do I think they're going to?

WALLE: Right.

SOLOMONS: Well, you know, since I'm not a commissioned police officer, I don't know if my opinion means much, but I don't think it takes much training to ask somebody if they feel it's necessary in the investigation of a criminal offense to ask if you're here legally or not.

WALLE: So how do we determine—

SOLOMONS: Most of the police departments already have policies in place of what to do should somebody be arrested, or detained, and arrested for that purpose of being here illegally. They already have policies in place they don't need new policies.

WALLE: So then what is the purpose of your bill then?

SOLOMONS: I think it's pretty obvious from what I've already said.

WALLE: I mean, what is the purpose of your bill then if we're not going to mandate?

SOLOMONS: The purpose of my bill—and I'll say it again: The purpose of the bill is to create a uniform standard for how local law enforcement will work with federal immigration enforcement departments. That's all the bill does.

WALLE: In Harris County, we run a program called the 287(g) Program.

SOLOMONS: That's great.

WALLE: In Harris County, we probably deport more folks in the whole county than in any other county in the state, probably in the country. And the notion that we need this bill because local law enforcements are not adhering to any kind of immigration programs is really false because HPD runs Secure Communities. Harris County runs 287(g). Are we now going to have to carry a passport or carry our birth certificates? How are we going to be able to—

SOLOMONS: There's nothing in this bill that requires any of that. There's nothing in this bill that says anything that anybody has to do other than as a governmental entity not have policies that are prohibitive.

REPRESENTATIVE PEÑA: Mr. Chairman, thank you very much for taking the time to discuss this matter with a number of us who have had concerns. One of the concerns that, and I think you addressed it earlier, that many in my community have is with racial profiling. You mentioned that there are many laws that already make it illegal with regards to racial profiling. But it is in fact true that you have worked with one of the members of our group to accept an amendment to make sure that it is clear that racial profiling will not be tolerated?

SOLOMONS: I even signed the amendment.

PEÑA: That's very good.

SOLOMONS: I don't know how many times Mr. Gonzales got it, but I even signed it. Because there are already federal laws and state laws that you well know about racial profiling. I think there was some concern about the bill saying something to that effect, and I am more than happy to accept that amendment.

PEÑA: And so the triggering mechanism is what, Chairman Solomons? I'm driving down the road. What's going to allow a police officer to pull me over in that circumstance?

SOLOMONS: As like in any other traffic stop, because I think that's been some of the concern, but, you know, with we have so much of the traffic code that's already a criminal offense. You know, it's not just administrative. It's a criminal offense. Officers stop people all the time for violation of the Texas Traffic Code, and quite frankly, if they think there's a violation. There's nothing in this bill, as you well know, that requires a police officer to ask any questions, whatsoever, about whether they're here legally or not, in connection with that particular situation. But as you well know, too, the bill, as we discussed it, the bill only requires, I know you had concerns, but the bill only requires that the law enforcement doesn't have policies that prevents an officer from asking a question

about legal residency if they deem it necessary. And part of their investigation from a stop, from any stop, for the investigation of any criminal offense.

PEÑA: Yes. Currently, under the law that Texas follows, we follow, as I understand it, the Secure Communities Program, is that correct? Are you familiar with that program?

SOLOMONS: Yes. In fact, I think we have a bill that, I think, formalized that. Most of the cities and counties already use that particular program.

PEÑA: Is that standard any different than the standard that you've seen working in this circumstance?

SOLOMONS: I don't see any of that changing. 287(g) Community Supervision. Whatever it is, nothing's changed.

PEÑA: What's your understanding how it works under the Secure Communities Program?

SOLOMONS: What?

PEÑA: What's your understanding of how the question is raised with regards to citizenship under the current Secure Communities Program? What's your understanding?

SOLOMONS: I don't have that bill in front of me, particularly, about the exact process. I don't know that I want to get into the exact process of that. But I do know that that they do, upon arrest anyway, they do go through a process by which they try to verify or try to request anyway, the fact that whether or not someone is actually here legally or not, through that program.

PEÑA: Okay. And that is a program that is currently in use in all the counties of this state; is that correct?

SOLOMONS: I think it's used—I think when I did my bill on that, I think someone told me, I think we have 253 out of 254 counties have that program in place.

PEÑA: Okay. Including my county of Hidalgo?

SOLOMONS: Yes.

PEÑA: But the concern raised by many—if I'm driving down West University—which is a town I used to live outside of in Houston—am I going to be stopped because I'm Hispanic driving through that, absent some sort of criminal activity or something like that?

SOLOMONS: This bill does not require an exact—I don't think the bill did on its face. I think we already have profiling type legislation in the state and federal law. But the idea of just stopping somebody because they look different or they're Hispanic or French or Swedish or whatever. Quite frankly, we just don't do that. This has to do with once you're detained for a criminal offense.

PEÑA: One of the other concerns that was raised by some in our community was people were going to be afraid to get help that they needed when they went to the hospital. Let's say, for example, a woman has been abused at home needs go to

the hospital because she's been battered, but she's concerned about her circumstances in going to the hospital and people are asking her about her citizenship.

SOLOMONS: There is an amendment that has to do with—to clarify, that issue for hospitals, in particular, because they have specific standards in health care, just like in schools for education enrollment, that sort of thing. So we try to ensure, and we are going to ensure, that that's not a problem. But unless there's a criminal offense involved, and a commissioned police officer is involved, there is nothing in this bill that has any effect on any of that.

PEÑA: Okay.

SOLOMONS: If someone needs health care, they need to get health care.

PEÑA: I believe that's an amendment that Representative Aliseda has worked with you on.

SOLOMONS: It's going to be acceptable and it's very specific in federal law, and some state law, about healthcare and we want to make sure that was not going to be a problem for access to health care and/or to the hospitals themselves.

PEÑA: I'm sure you're familiar, having raised this bill and the other bill that you talked about with regards to Secure Communities, you're familiar with the Arizona standards that many—that have been written about in the papers. How is this law different, if you know, from the Arizona standards?

SOLOMONS: Well, the Arizona legislation, as I understand it, requires, and I underline the word requires, law enforcement to inquire about immigration status during a stop. Whereas this bill prohibits entities from having policies that interfere with an officers ability to, in the investigation of an offense, to inquire about that if they deem it necessary. It's totally different in that regard. There's no requirement here that the police officers do anything. Arizona requires police officers to do certain things. We're not requiring them to do that.

PEÑA: Okay. Now, with regard to the district attorneys—does this law take away discretion from district attorneys in deciding which cases he or she would take?

SOLOMONS: Federal law revealed somewhat about that, but what it does do is it requires district attorneys and criminal, county attorneys, municipal attorneys, et cetera, to cooperate in the assistance and cooperation with federal immigration officials as reasonable and necessary, including providing enforcement assistance. By the way, I think the attorney general even mentioned that in an opinion, that federal law prohibits restrictions on the sharing of information between local governments and federal government anyway.

PEÑA: Okay. One of the other concerns that some people had was the right of an individual to sue cities. Is that in your bill, and how would that work?

SOLOMONS: We have—thank you for asking about that. We specifically set out a process by which a lot of this could be settled once and for all, about whether or not governmental entities have sanctuary type policies. And we did it through the process of filing a complaint with the attorney general's office. You have to

provide evidence. You have to provide something more than just saying I think they do this. You have to have some evidence to bring it to the attention of the attorney general for them to even bother to investigate that process. So we're not making it where everyone can just run out and sue every governmental agency because they think there's a policy or they think something's happening. Quite frankly, that's a lawsuit, that's a tort reform nightmare and as a former city attorney, that was not my approach.

My approach was to do a very comprehensive manner that basically—comprehensive manner in a way that basically sets forth an entire process very completely to try to determine whether or not the attorney general of this state, the State of Texas, thinks there's a problem or not a problem. Nothing in this had bill even requires the attorney general to do anything, file suit. It just says that they may if, in fact, they think there's a problem. And, in fact, if they don't work it out—the way I really envisioned this is basically, the attorney general's office and their investigative team who receives these complaints, may find that there's a complaint with some evidence. They may want to sit there and investigate that, call the city or call the county or call the law enforcement official and basically try to see if there is a problem. If they do think there is a problem and something doesn't get worked out, we give the authority to the attorney general to do something about it in a very legal manner.

PEÑA: Okay. So in that circumstance he acts like a district attorney in that he has the discretion to do something or not do anything? Is that accurate?

SOLOMONS: It just says the attorney general may file. It doesn't say they shall file. It doesn't say they will file. Is it doesn't say they must file. It says they may file a petition or for writ of mandamus or apply for other appropriate equitable relief of a district court in Travis County or in a county in which the principal office of the entity described by Subsection (a) is located. That adopts such a rule or they think there's such a problem to not do that. And quite frankly, that's what the bill does. It's a process.

PEÑA: Let me move on to a different subject area. Many of us have been concerned about the Arizona model, and what is happening in Arizona. And since many of the laws that have been passed in Arizona, there has been, and I'm asking you if you're aware of this, an actual retreat back from some of their more draconian measures on immigration. Are you aware of that?

SOLOMONS: Arizona can do what Arizona wants. This is the State of Texas and we're going to do what we think we need to do, in a responsible manner.

PEÑA: Have you heard about—let me just say this because I can see I'm running out of time. Chairman Solomons, there are a number of concerns that some of us have had. I want to thank you for working with us. I want to thank you for accepting the amendments that we negotiated, and after we listen to the remainder of the amendments, hopefully, we can find or reach a conclusion that is satisfactory.

SOLOMONS: Thank you. I appreciate it.

REPRESENTATIVE ALVARADO: In your previous testimony or discussions with Representative Walle, you mentioned that you're not mandating that police officers do anything. But the way I read it, if we're telling them that they can't pass an ordinance, not allowing their officers to not inquire about immigration status, then we're basically saying that they can. That they can inquire about—

SOLOMONS: I'm not saying they can't, I'm saying that you give the discretion to a commissioned police officer upon any criminal investigation. Any criminal detention. Any criminal offense. If they think it's necessary for that investigation and that offense, why would you take away their discretion?

ALVARADO: We pass laws every day here on the floor telling home-rule cities how to operate. But this is different because we're directly telling a department head, in this case being a police chief, how he or she can supervise his or her employees. We're interfering with the daily operations of a police department.

SOLOMONS: I don't agree with that.

ALVARADO: Okay. Right now, for example, in Houston we use Secure Communities.

SOLOMONS: This still doesn't say a word about—

ALVARADO: But it will change what the city of Houston and all the 254 cities and counties throughout the state do at this time. We inquire about immigration status once someone is booked in the facilities, and then their status is inquired upon. But your bill is saying that, for an example, if someone is driving and pulled over for a red light, I mean, it doesn't say that. But it says for a criminal offense, but it would mean pulled over for a red light, or if somebody is jaywalking, or if somebody passes a red light, then their immigration status can be inquired upon.

SOLOMONS: Do you think that a person who's here illegally should have a place in this state that allows—where they're never going to be asked about that, even by a commissioned police officer investigating a crime. Do you think that that's the right policy?

ALVARADO: I think the policies that are in place now are adequate for cities and for counties when the immigration status is inquired upon, it is when somebody has been arrested and they are booked. What's wrong with that policy?

SOLOMONS: Well, I respect your opinion on that, but I will tell you the Houston police chief has never told me, for example, that they have a sanctuary policy. I don't know if Houston has a sanctuary policy.

ALVARADO: We don't have a sanctuary policy.

SOLOMONS: And you may not, but a lot of people seem to believe that there is one. But this bill will allow a process to determine that once and for all, based on what you have or make a judgment. This bill, and you know we've had this discussion: I really believe that this bill, and the way it's drafted, and with the two or three amendments that are probably going on, that I'm going to accept, I hope, that's going to be acceptable to the body, is going to really be something that

prohibits, and we have uniform law that prohibits, the idea that you tell commissioned police officers while you're investigating a criminal offense or someone's in detention what they can ask and what they can't ask.

ALVARADO: You almost have a uniformity across the state, if most cities and counties are already using Secure Communities, with your bill, police officers will have to be trained. Because by telling them that they cannot not inquire, you're saying that they can, and if they can you have to train as if you want them to, because you can't just hope that they know what they're doing. They will have to be trained on immigration law. Our police department has said that police officers will have to undergo at least two weeks of training, and 58 new personnel will have to be hired, 22 of those will be local officers designated to perform immigration functions, 33 for guards for additional prisoner beds, and three identification officers. This all comes to the tune of about \$3.7 million, and that doesn't even get into the software and the equipment that would have to be purchased.

SOLOMONS: Well—

ALVARADO: So it is an unfunded mandate, and I know you and I have had disagreements on that.

SOLOMONS: We tend to disagree on that, and I think the police chief in Houston protests too much about this. Because they say they don't have a sanctuary city type policy. They don't believe that their policy that they have in place is a sanctuary city and would be in violation of this law. They seem to protest an awful lot though. It seems to me, quite frankly, with all due respect to the people in Harris County and Houston, or anywhere in the State of Texas, that if you have to have two weeks of training to tell an officer how you ask if someone is here illegally, while they're investigating, if it takes them two weeks to do it, this doesn't seem quite reasonable to me.

REPRESENTATIVE V. GONZALES: Chairman Solomons, piggybacking on that, I understand the police chief in Houston has some issues, but it wasn't just the police chief in Houston. There were many police chiefs, many sheriffs and, in fact, many from the counties all together that came and protested this bill. Isn't that right?

SOLOMONS: Not to my office. None of them ever said they have a policy in place that they are worried about in connection with this.

V. GONZALES: I'm not—many came and—

SOLOMONS: They are protesting a bill, for whatever reason, that says—that doesn't require them to do anything. They can still do Secure Communities, they can still do 287(g). They can still do whatever they do. The question is whether or not there should be policies in place that says you can't ask someone who may be here illegally, hey, are you really here illegally? If they think it's necessary and they've been legally detained, they're not racially profiling. It doesn't make a lot of sense to me or a lot of people in the State of Texas.

V. GONZALES: And I have some questions with regard to the inquiry that's going to be done. But first, let me read to you, and I'm sure since you were keeping up with the articles, you've read them yourself. But, for instance, you've got Dallas County Jail already holds 3,200 undocumented inmates cost us \$6 million per year. Sheriff Lupe Valdez from Dallas has said the legislation, she estimated, would cost an additional million dollars, and "our priorities should be the safety of all our community members regardless of their status." Austin Police Chief Art Acevedo said the bill "would encourage racial profiling and cause city leaders to control over policies priorities. We're going to have police officers say they'd rather be at the Home Depot checking on day laborers to see if they're illegal immigrants." I know my sheriff from Hidalgo County was opposed to it. I know my police chief, Victor Rodriguez, is protesting it. So there have been, and maybe you believe that it's not fair. I've got the mayor of Fort Worth who apparently was against it. Perhaps you don't believe that they're justified in their criticisms of it. But let me ask you this: We're not saying that they have to do anything, but we're not prohibiting them from doing anything. So if somebody is detained, let's say for a public intoxication, okay, because it has to be a criminal investigation under your bill.

SOLOMONS: Correct.

V. GONZALES: So let's say that they're detained for a public intoxication.

SPEAKER: Representative Sheffield raises a point of order, the gentleman's time has expired. Point of order is well taken and sustained.

V. GONZALES: Mr. Speaker, I know it's been extended. I just have a few questions for Chairman Solomons, and I ask that it be extended one more time.

[The request to extend speaking time was granted by Record No. 821.]

V. GONZALES: Okay. Chairman Solomons, we were talking about the inquiry—let's say somebody is stopped and they believe, or somebody is publicly intoxicated and so a police officer has detained them. At that point, let's say that the person is answering in Spanish, instead of English, they're speaking Spanish to the police officer at that point. Nothing in this bill prohibits them from asking the immigration or the status of the individual. So let me ask you: What does this inquiry consist of? If the person is speaking in Spanish, because we do have many that are legal that do speak Spanish as their primary language. So let's say that the officer then asks the person, makes the inquiry of the person, what is your immigration status? Are you an American citizen? What is that person going to do? Are they going to have to present some type of birth certificate? Are they going to have to present a passport? Are they going to present perhaps something that shows that they're naturalized? What type of inquiry is going to be done? Is your bill even addressing that?

SOLOMONS: My bill doesn't address what the police officer is going to do in investigating an offense. The bill only deals with the idea, as I've said, that a governmental entity, and someone representing a governmental entity in law enforcement, not have specific policies in place that prevent officers from

investigating a criminal offense from somebody who's been lawfully detained or arrested.

V. GONZALES: I understand, then.

SOLOMONS: So I don't know. I think you can just say, if the officers the—if they're here legally, to say yes, I'm here legally. I'm not the commissioned police officer. I don't know what the officers ask in public intoxication. I know what they do to determine whether it's public intoxication, if somebody's going to get arrested for public intoxication. I don't know if that would be relevant to a decision if someone's here legally or not to try to determine if there is public intoxication. They sort of have to make that determination on their own, and you know as well as I do, that it's usually the odor of alcohol or, you know, bloodshot eyes, all the things that go into the affidavit, when they basically say, this is why I arrested the person.

V. GONZALES: Well, and I'm not concerned about the—

SOLOMONS: You're asking me to second guess what a commissioned police officer is going to say, and somehow this bill somehow says that they're going to need to ask them that. This bill has nothing to do with that.

V. GONZALES: I understand that. What I'm asking you, though, is how far this inquiry is going to go. We're leaving that up to police officers all around the state as to how they want to do this inquiry. And my concern has been expressed by many Texans has been the fact that people that are American citizens could be harassed because English is not their first language. And they would be required at some point because now you've got an officer that has the ability to ask for their immigration status, not call the federal government, not call the border patrol or ICE, but they can ask whether or not they're going to be harassed for hours upon hours, trying to prove that they're an American citizen. I don't carry my passport. I don't carry my birth certificate with me. And I'm not so sure. I understand what you're saying. But there is a possibility here for people to be—to be held, detained, harassed, inquired of, and that is a concern many have. Your bill is silent on that issue because we're giving the authority to the police officers to basically act as federal agents without the training. Representative Alvarado mentioned a moment ago: Any police department is going to probably feel the need to train their officers or at least to have some type of an educational program so that people are not exceeding what would be legitimate bounds in asking for their immigration status.

SOLOMONS: Yes, ma'am. And I understand your concerns, and quite frankly, that's one reason I signed onto Mr. Gonzales' amendment that he went around to a variety of members, both democrats and republicans, asking them to have an amendment put into this bill to make sure that everyone knows what the deal is in connection with racial profiling, even though those statutes were already on the books. In fact, we added the word language so there would not be a reason to necessarily ask anyone concerning racial profiling.

V. GONZALES: And I gladly signed onto that, as well, and I know that your intent is not for people to be harassed. And I know that. And I know that is the intent of everyone who signed onto that amendment. But the fact of the matter is how do we actually enforce that? How do we actually know that that's not going to occur? How do we monitor that to know whether or not racial profiling is going on? What we do know right now is that the reason that they can't racially profile and ask this information is because the federal government has that job. The federal government is the one, those who are trained and, in fact, under the 287(g) agreement that are entered into, for them to have that authority, they have to be trained. Now we're going to have untrained officers going out there with the ability to ask questions and we both know that while we have faith in our police officers, there will be some that will abuse it.

SOLOMONS: Well, my suggestion is to every police department and every police department official who is watching this debate or is going to take into consideration the situation should this bill even become law. All we're trying to do is see if it will even become law by passing it out of the house and sending it to the senate. But at the end of the day, if you've got rogue officers trying to profile people, I think the police department's have policies in place, already, to deal with officers who aren't doing their job correctly.

V. GONZALES: Well, and you know the other thing is, let's say that is happening and somebody comes and says, I was profiled against. I mean, and I feel that I'm going to take action against this department. Okay. Who's going to defend the department? Right now we know that if the federal government abuses their powers, the government is going to come in and defend the offices that did that. Who is going to defend those who abuse the power? What kind of money is it going to take in order for them to do that?

SOLOMONS: My experience has been with every city I've been associated with, and from what I gather from the standpoint of municipal law and policies of cities and counties around the State of Texas and around the country, that they have mechanisms in place to deal with that. Whenever they discipline an officer, they already have those policies in place.

V. GONZALES: But if somebody comes and brings suit—I can tell you, there will be some people that are going to be mad as hell if they get stopped and they're told I want to see your papers and they're harassed. And if they bring an action against the department, they bring an action against that city, I mean, we—you talked about it—

SOLOMONS: My bill doesn't change any of that. This already goes on. It's already in place.

V. GONZALES: It gives an extra power, an extra basis for a suit. An extra basis for someone to bring a claim. We're giving them zero dollars to have to defend those types of actions. And so while I understand that your bill does not specifically say that it is costing money, the reality is the unintended consequences could be that we're going to be costing money to departments who are going to have to defend these types of claims that are being brought. And I

also noted that in your bill on page 3, line 12, you basically have a citizen whistle-blower type of claim, where if a citizen believes that a city or if a police officer, for instance, is not acting upon this law or this new law, if it passes, that any citizen can then file a complaint with the attorney general complaining about the city. So we're telling everybody who's out there saying, you know, my city, these police officers, they need to be asking these people whether or not they're citizens. They didn't do it, I believe they didn't, and now they're going to be bringing these complaints to the agencies.

SOLOMONS: You know what? Any citizens in this state can already bring a complaint, number one. Number two—

V. GONZALES: Not against local officers.

SOLOMONS: Number two, any citizen under this bill, if you read on, if you read Section F, that sets out the mechanism in place. It says any citizen residing in the jurisdiction of an entity described in Subsection (a) may file a complaint with the attorney general, if the citizen offers evidence to support an allegation that the entity to adopt a rule, order ordinance or policy under which the entity prohibits the enforcement of the law of the state. It doesn't go to whether or not they were harassed. It goes to whether or not there was an adoption of a rule. Nothing in this bill changes the right of any citizen to file a complaint against any city with the attorney general for anything that they think they've been wronged on. This bill doesn't address that and you're right. It addresses the mechanism by which a citizen can infer if they think that there's a sanctuary policy, and there is a very prescribed process set out in this bill.

V. GONZALES: But your bill also says it's not that a city has to just adopt a policy that then you could say they adopted a policy that says they're allowing sanctuary cities. Your bill says that if they believe that by consistent actions the city is somehow a sanctuary city, then they could bring a complaint. So what is consistent action? I mean, what constitutes that?

SOLOMONS: Well, let me just tell you, you and I know, because you're an attorney, that law enforcement departments, especially large law enforcement, maybe some midsize ones as well, maybe some small ones around the State of Texas, all have legal teams that basically advise the police department, number one. Number two, every city in this state, I think, has, at least by contract, a city attorney of some sort to ask those kind of questions, if we adopt this policy or adhere to our policy currently. What is your legal opinion about that? You know, I don't see how anything changes in connection with that.

V. GONZALES: Well, I'm saying this: The city doesn't have to adopt any policy at all. Let's say they don't adopt any policy at all. You've got a citizen there who says, I believe that by consistent actions, that I've seen my city is not asking people, my police officers are not asking these people whether they're here legally or not. And so, by consistent action, I believe that they are allowing sanctuary cities to exist and they bring a complaint with the attorney general. The attorney general's office now has to investigate that. Whether they believe it's frivolous or not, they have to conduct some minor investigation, at a minimum,

and then dismiss the action if they fail it's not relevant or it doesn't have merit. We're talking about a lot of extra work done because of this bill, which you say does nothing.

[Amendment No. 1 by Gutierrez was laid before the house.]

REPRESENTATIVE GUTIERREZ: What my amendment does is basically allows us to comply with 287(g). 287(g) was a program that was created by the Department of Homeland Security under the Bush administration to ensure that individuals are detained in a proper manner so that in any criminal case, people can be handled accordingly and not compromise the prosecution. This is a tough-on-crime amendment. The 287(g) program, one of ICE's top partnership initiatives, allows the state and local law enforcement entities to enter into a partnership with ICE under a joint memorandum of agreement. The state or local entity receives delegated authority for immigration enforcement within their jurisdictions. This amendment would require that the federal government compensate and provide employees of the entity with immigration law training and supervision of the United States Immigration—

REPRESENTATIVE BERMAN: Representative Gutierrez, do you know that the secretary of Homeland Security has suspended the 287(g) program completely? It's not happening anymore. There is no training going on now.

GUTIERREZ: Mr. Berman—

BERMAN: Yes?

GUTIERREZ: What this is about is about making sure that our cities don't get unfunded mandates. What this is about is making sure that the federal government pays cities for the unnecessary expense in having to employ additional people to do this type of work that apparently some folks in this house seem to think is necessary.

BERMAN: You understand, and you probably know this, from the city of San Antonio, that police departments all over the State of Texas have a continuous education program, and this can be incorporated in their continuous education program at no expense because many police officers from throughout the entire state have already been trained. And since the training program doesn't exist anymore, that's why Arizona passed its bill, because 287(g) training doesn't exist.

GUTIERREZ: Mr. Berman, you understand that different levels of law enforcement have different areas of jurisdiction, different levels of authority, different levels of jurisdictional training to perform the function that they are there for; thus, ICE has its certain jurisdictional authority. The city of San Antonio police department has its jurisdictional authority by the city of San Antonio's charter. The FBI—

BERMAN: Answer this question: does the FBI have jurisdictional authority to stop someone from running a red light in the city of Houston?

GUTIERREZ: You are asking, Mr. Berman, something that is totally—you know that a law enforcement officer can stop someone if they feel that they are performing an illegal act.

BERMAN: That's exactly right.

GUTIERREZ: What this legislation does is it allows overzealous people in law enforcement to do something extra, to do something that they are not empowered to do. It is not in the jurisdictional authority of any particular police department to do what is being required, or quote-un-quote "not required to do anything" here today.

BERMAN: I read the bill and I think the bill is excellent, and I think Mr. Solomons worked hard on the bill and he did a great job on it. There is nowhere in the bill that a police officer has to ask a question concerning someone he stops about their immigration status. Now, there is a case—there is not a single illegal immigrant in Texas that has a driver's license, they're not supposed to. We didn't give them permission to drive, did we? They don't have liability insurance. Now, some do, because there are some Hispanic insurance companies that will sell liability insurance—

GUTIERREZ: Is there anything about driving in this bill? Is there anything about driving in this bill?

BERMAN: No—

GUTIERREZ: Is there anything about driving in this bill?

BERMAN: Yes, it's a crime to run a red light, it's a crime to run a stop sign, it's a crime to speed—that's all in the bill. It says that if they commit an offense, they could be stopped.

GUTIERREZ: The fact is, Representative Berman, this is an unfunded mandate on my city that you and Mr. Solomons are trying to pass—

BERMAN: How is it an unfunded mandate?

GUTIERREZ: There is an additional cost to the people, to the city of San Antonio. The State of Texas refuses—you know what, I like the idea that we're going to try to put uniform standards, so my next amendment on page 56 will be about DPS also doing this, and making sure that DPS does this.

BERMAN: Do you know one of the first things that a San Antonio policeman has to do once he gets through with school? He'll do the same thing that we did here in this chamber on January 11th—he will raise his right hand and, as Mr. Martinez Fischer mentioned two words before, he said "preserve and protect." Let's finish that—preserve and protect what? Preserve, protect, and defend the constitution and laws of the United States in the State of Texas. So that police officer is going to make some decision in his mind that he's no longer going to do that? Is that a decision that we can make?

GUTIERREZ: Mr. Berman, let's pay for it. Let's pay for it. That's what everybody behind you has been talking about.

BERMAN: Let's pay for what?

GUTIERREZ: Let's pay for the extra, added expense that you and other proponents of this unnecessary legislation want to create. Let's pay for it.

BERMAN: Tell me what it's going to cost the city of San Antonio.

GUTIERREZ: Mr. Berman, it will cost additional police officers. Do you know how much it costs to hire a police officer in the city of San Antonio? \$96,000 a year.

BERMAN: Why would it cost the additional police officers?

SOLOMONS: Mr. Berman, if you have all officers going out and investigating immigration cases when they should be looking at murders, the consequence of it, Mr. Berman, is that overzealous law enforcement officers will do those things.

BERMAN: That's not what the bill says.

GUTIERREZ: That is the consequence.

BERMAN: That's the training.

GUTIERREZ: That's the consequence that this racial profiling bill will do. I'm sorry, Mr. Berman, you are dead wrong.

BERMAN: No, I'm sorry, you are dead wrong, sir, because that's what continuous education and police departments all over the state teach police officers how to deal with different people—

GUTIERREZ: The unfunded mandate, the cost to the city of San Antonio, the cost to the city of Houston—we heard testimony earlier from Representative Alvarado that it would cost the city of Houston \$3.4 million.

BERMAN: So are you saying, then, that if a police officer stops an individual in San Antonio for running a stop sign, or for running a traffic light, or for speeding—let me finish the question—or for speeding, and they don't have a driver's license, and they don't have liability insurance—

GUTIERREZ: They get arrested.

BERMAN: —they should just say "sayonara" and let them go?

GUTIERREZ: Those folks get arrested right now in the city of San Antonio.

BERMAN: They do get arrested?

GUTIERREZ: They do get arrested.

BERMAN: Do you think they should be asked about their immigration status or not?

GUTIERREZ: Let me ask you a question.

BERMAN: Sure.

GUTIERREZ: Do you know that the city of San Antonio is not a sanctuary city? I don't know what is a sanctuary city, I have yet to have one city in the state that says "we are a sanctuary city." So what are we trying to do here today?

BERMAN: I'm supposed to ask and you're supposed to answer.

GUTIERREZ: No, this is a dialogue, this is a discourse—

BERMAN: I hope it's a discourse, but I'm asking and you're answering. I don't think it's going to cost the city of San Antonio an extra penny because you're going to still continue to stop people for committing traffic violations, and if they find one, and they find that he is illegally in the city of San Antonio—in the city of San Antonio, I don't think anything is going to be done about it, anyway.

GUTIERREZ: Mr. Berman, I'll tell you what—

BERMAN: Is that correct or not?

GUTIERREZ: I'm willing to bet your retirement that the city of San Antonio will pay more money. Are you willing to take that bet?

BERMAN: My retirement?

GUTIERREZ: Your retirement.

BERMAN: I'm not willing to bet you anything, and I'm voting against the gambling bill, as well. I'm asking you a question, and the city of San Antonio, if they find that somebody is illegally in the city, are they going to put them in jail for that reason?

GUTIERREZ: In the city of San Antonio, if someone doesn't have a license, the current ordinance that's in place for not having a license and insurance is that those folks go to jail. The rest of that work, if someone is in jail and they're asked, our Bexar County asks their status—because they do—ICE is then called, and ICE sometimes shows up. Sometimes the person sits in jail for 60, 90, 120 days. That's the current state of affairs in Bexar County, and unfortunately, we don't often get reimbursed by the federal government.

BERMAN: Can you show me where that's actually happening in Bexar County?

GUTIERREZ: I can show you countless examples of where that's happening in Bexar County. It's happening in Travis County. It's happening in Dallas County. It's happening in Harris County. If you go to the Bexar County Jail, you are asked, and then ICE is called. ICE has a period of time by which to get there.

BERMAN: Is San Antonio a sanctuary city?

GUTIERREZ: Colleague, so that you and I could tone down our rhetoric just a bit, I think that my colleague would like to answer a question. But I'd rather—I'm fine continuing our exchange.

BERMAN: I'm fine continuing with our exchange, also.

GUTIERREZ: If you'd like to hear from Representative Castro, you just let me know.

BERMAN: Is San Antonio a sanctuary city?

GUTIERREZ: No, it is not.

SOLOMONS: I'm going to move to table this amendment. Apparently, this amendment goes against the goal of the legislation itself, which is to apply a consistent standard of law enforcement. And Mr. Gutierrez's amendment would say that the bill would not apply unless you have been trained under a 287(g) program. I think you've already heard the dialogue about 287(g). I don't really believe that you have to be trained in 287(g). In an investigation, a commissioned peace officer, if they feel it's necessary after a lawful detention or arrest to have someone here who's been here illegally—what really happens, generally speaking, is the officers get an idea of whether or not that is relevant pretty quickly, I would assume. But maybe not so much in some cases, whether or not that may be relevant. But I think that Mr. Gutierrez's amendment would provide some sort of disincentive to participate in 287(g) programs, actually. And if the city is going to remain a sanctuary—I don't know if San Antonio is a sanctuary city. There may be people out there who believe they are, but I don't know that. And this bill provides a mechanism for that final determination if, in fact, there is a policy out there. But I will say that I was very disappointed in the police chief of San Antonio running around saying in the press that we're not going to back up federal enforcement officials because we're just not going to do that unless it's a smuggling case. So I'm going to move to table this amendment.

REPRESENTATIVE OLIVEIRA: Representative Solomons, you are trying to impose a one-size-fits-all for purposes of this discussion, is that correct?

SOLOMONS: I'm trying to provide uniform, consistent policy.

OLIVEIRA: One-size-fits-all? Do you agree with me?

SOLOMONS: Those are your words.

OLIVEIRA: All right, well then, let's use yours—a uniform standard. Are the criminal problems in your area the same as the criminal problems in the Rio Grande Valley?

SOLOMONS: Some of them are the same, not all of them, probably.

OLIVEIRA: All right. And I think we could say that they're different in Houston versus Austin and in many other areas, too, correct?

SOLOMONS: I think it depends on—you know, this isn't going to be a cross-examination, in that context. You and I both know that there are similar problems involving crimes going on all over the State of Texas, very similar in nature—

OLIVEIRA: I do intend to cross-examine you—

SOLOMONS: —but not everybody has the same problem. I know that along the border, there's some issues that may not be quite the same, but may be similar to what's going on in Dallas/Fort Worth.

OLIVEIRA: But what your bill does, though, your bill says that police chiefs and sheriffs departments have to follow a uniform standard when the problems in their particular communities may be different all throughout the great State of Texas. That's what your bill says. In other words, your bill says that if my police

chief or my sheriff wants to simply say, you know what? I'm worried about the drug cartel. I'm worried about spill over violence. I'm worried about burglaries, or we've had a serial rapist. I can't tell my deputies, I can't tell my police officers that they can stop enforcing immigration law. That's what your bill says. If I'm the police chief and I make a decision, look, we don't have time to be doing this immigration questioning, nor do we have time—and I'll take you to page 2 of your bill, Section 3—to assist or cooperate with a federal immigration officer as reasonable and necessary, including providing enforcement assistance. So if I am the chief of the city of Brownsville and I don't want my guys doing this. I don't want the men and women that work for me out there doing this. We've got crime problems. I've got a community that's concerned about its public safety. They can be doing—they can't do that under your bill. That chief or that sheriff can't do that, correct?

SOLOMONS: I think federal law already says that you need to cooperate with law enforcement officials and federal officials in immigration matters.

OLIVEIRA: And you know what? They do already. And you know that, Chairman Solomons. In fact, you have passed another bill out of State Affairs that we all supported, and I asked you about earlier today, that said if someone is arrested and detained and they are brought in, their immigration status is to be checked, and I voted for that bill. Why have we not seen that bill on the floor?

SOLOMONS: Believe me, I have no idea.

OLIVEIRA: Have you asked Calendars Committee to vote for a bill that would accomplish the same thing you're trying to accomplish here?

SOLOMONS: You know, we all go through the same calendars process in getting our bills before—a lot of bills don't make it. Some bills do.

OLIVEIRA: Do you know the average cost to house somebody in a city or county jail per day, per night?

SOLOMONS: Do I personally know? No, sir, I don't.

OLIVEIRA: Would you agree with me, or would you agree for purposes of discussion, that it could be as much as \$70 a night?

SOLOMONS: I have no idea. I know it used to be—several sessions ago, we did a bill and I was the joint author of it. In fact, I had a separate bill about criminal defendants spending time in county jails, and it was about \$40 at that time.

OLIVEIRA: Well, that was a long time ago, and I can tell you with a great deal of assurance that it is more like \$60 to \$70, depending on the county and city where you're at. Now, if people have to be held—detained—including providing the enforcement assistance, that's going to take up man hours of law enforcement people, and they're not going to be able to be dealing with other public crimes. Would you agree with that statement?

SOLOMONS: Chairman Oliveira, I know that you know that it's the duty of every law enforcement official to try to work together.

OLIVEIRA: Sure.

SOLOMONS: And to try to assist—

OLIVEIRA: And they do now.

SOLOMONS: And they generally do, but they shouldn't have policy in place, with either winks and nods or by—

OLIVEIRA: You know when they do—

SOLOMONS: —by order that prohibit the enforcement of our laws.

OLIVEIRA: You know when they do assist is when people are arrested and detained. And when they are arrested and detained and brought in, their status is checked and ICE agents are there either that night or the following morning in almost every community in Texas. You heard that testimony. You know that there was sworn testimony to that effect, do you not?

SOLOMONS: I guess so.

OLIVEIRA: Okay. So if they're already being detained and picked up by ICE to decide whether or not they're deported, then the whole situation you're talking about is unnecessary because law enforcement is already cooperating. They already are talking to each other by their different computer systems. They are already deporting people that we don't want in our country, isn't that correct?

SOLOMONS: Mr. Chairman, I know you're a law and order kind of guy and that you don't want people here violating the laws and I know that. You've said that on many occasions. I know that is your nature, to want to fight crime every way you can. But I also believe that you would not want people to be free to never, ever, be asked if they're here legally or not.

OLIVEIRA: I don't want racial profiling, though, either.

SOLOMONS: I don't either, and you know that.

OLIVEIRA: In this state, we certainly have driving while black. In this state, if this bill passes, we will have driving while Mexican. That's what's going to happen. Mr. Solomons, let me take you to the school district component of your bill. In that component, what you have is that the employees of a school district—be they law enforcement officers—that if they are told by the school district, as they are now. As you also know from our discussions before, and the association of school board policy dictates, as does the Supreme Court case of Tyler, it says that a school district is not to inquire into the immigration status. Would you agree with me, then, that the employees of a district, be they law enforcement officers, if they make this inquiry, will now be in violation of the Supreme Court of the United States and of the law?

SOLOMONS: Based on your concerns in committee, Mr. Chairman, we worked with a school district attorney in connection with addressing the issue of schools. And we've put in the bill—and it came out of committee—in fact, you asked me to try to get it right, and I tried to get it right in connection with that.

OLIVEIRA: And you made a good faith effort, and I appreciate that.

SOLOMONS: And asked to have that in the bill, coming out of committee, where we addressed school districts' concerns about the Supreme Court case, and enrollment, and the right to be educated, and that sort of thing. And this bill only goes to whether or not there's—in fact, we put it in, on lines 19 through 22, that it does not exclude the applications of this section to a commissioned peace officer employed or commissioned by a school district, or an open-enrollment charter school, or a junior college district, but the phrase before says this section does not apply to a school district, or open-enrollment charter school, or a junior college district. That was specifically put in because of your concerns that were raised

OLIVEIRA: I appreciate you going halfway there, but—

SOLOMONS: But it goes to a criminal offense where you bring in or a school district uses a commissioned police officer and it goes to a criminal offense where a student could be detained for whatever, but it goes to the—

OLIVEIRA: And those are—

SOLOMONS: But it goes to a criminal offense—

OLIVEIRA: And, like the example I gave you was of two school children fussing in the yard with each other. The school district police officer shows up and he sees a brown little girl and a black little girl that have been in a fight, and he's talking to both of them. And if the school district says you are not to inquire into their immigration status, you are not to ask that little eight-year old, where does your mommy come from? Where does your daddy come from? Are you here illegally? Do you know if your mother has a resident alien card? You're still putting people, who are not trained to be immigration officers, you're still asking them to be ICE agents. Even if they're a rent-a-cop for a school district, or a licensed peace officer, or a deputy, or a police chief—there is specific training that goes into becoming an ICE agent. And I can assure you that our police officers, and clearly the security police at almost every school district in this state and every junior college, is not ready to take on this job. And that's what you're going to force them to do.

SOLOMONS: This bill addresses the fact that you should not have policies in place that interfere with the investigation by a commissioned police officer in investigating a lawful offense, and that's all it does.

OLIVEIRA: Now, you've said that there hasn't been any police chief or sheriff come by.

SOLOMONS: Not to me personally. Not one of them have talked to me personally.

OLIVEIRA: Has anyone come forward—

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry.

CHAIR (L. Taylor in the chair): State your inquiry.

MARTINEZ FISCHER: Prior to the Martinez point of order, I had offered a point of order at least an hour ago, if not longer, and I was advised by the chair that they were working on the statement explaining the rationale for the overruled

point of order. I'd like to know when that might be available to be read by this body so that we are informed.

CHAIR: Still working on it.

MARTINEZ FISCHER: I'm sorry?

CHAIR: Still working on it.

MARTINEZ FISCHER: Does the chair advise us as to how much more time the chair needs?

CHAIR: Well, we're working on one point of order at a time.

MARTINEZ FISCHER: And I understand that, Mr. Chairman, but mine's been skipped.

CHAIR: Pardon?

MARTINEZ FISCHER: Mine's been skipped.

CHAIR: Still working on it.

MARTINEZ FISCHER: So you're not aware of the time?

CHAIR: Not advised.

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry.

CHAIR: State your inquiry.

MARTINEZ FISCHER: It's the practice of the house to dispose of a point of order. Is it before the body until such time as the chair gives the rationale for his ruling, or is the matter disposed of simply because the chair makes a ruling?

CHAIR: We've already ruled on the point of order. We're just waiting to give you a written description of it, but it's already been ruled upon, in order.

MARTINEZ FISCHER: Yes, sir, and I know that. But I'm saying, in terms of—does the ruling alone satisfy the disposition so that we can move forward, or is it the courtesy that we are moving forward while waiting for an explanation?

CHAIR: I believe that's correct.

MARTINEZ FISCHER: Which one?

CHAIR: The second one.

MARTINEZ FISCHER: The courtesy that we're waiting for an explanation?

CHAIR: We're moving forward. We've already ruled on the point, he'll be writing up a description for you, but we are moving forward.

MARTINEZ FISCHER: Right, but as a matter of parliamentary procedure, my inquiry is: is the chair in the position to move forward pending a written explanation on the ruling?

CHAIR: Yes, we are.

MARTINEZ FISCHER: Okay. And that's under what rule?

CHAIR: Under Rule 1, Section 9, we have considered and disposed of the point of order.

GUTIERREZ: Basically, what this amendment does, folks, is to ask for some training by the federal government. My police departments are not immigration officers, they're not ICE officers. Neither is my county sheriff, neither are the county sheriffs in Houston, in Harris County, in Dallas, in Austin—they're not ICE officers. They're not immigration officers. They're not trained to do that. And so this is absolutely an unfunded mandate, number one. Number two, I don't really know of any sanctuary cities in the State of Texas. I know my city is not one. I had a colleague tell me that they thought maybe Houston was, but Houston's not a sanctuary city, I checked it out with their delegation. So I don't know of one municipality or town or county that has said that they are a sanctuary city. And so what I'm asking for in this amendment is some reason. Let's let the federal government provide some training so that our cities and our towns don't have to encumber more unfunded mandates.

REPRESENTATIVE ALONZO: Mr. Gutierrez, the reason you're proposing this amendment is because supposedly this program of 287(g) training allows for cities, counties to work with the federal government as it relates to immigration; is that correct?

GUTIERREZ: Yes, that's correct, Representative.

ALONZO: Now, Mr. Gutierrez, are you familiar with the city of Irving, Texas?

GUTIERREZ: I'm not advised, but maybe you can enlighten us.

ALONZO: Okay. The reason I'm bringing that to the attention is because Irving, Texas—that's in North Texas—is one of the cities that has this type of program. And are you aware that even though what you're trying to do with this legislation is to get the people trained—and I'm going to tell you why I'm bringing this forward is that there was a study done by, I think it was Berkeley, that showed that even though there was a law already, which is 287(g), Irving wasn't complying with all the requirements of the law. Are you aware of that?

GUTIERREZ: No, no, I'm not, Representative.

ALONZO: And the reason I mention that is, we have dealt with this issue, as you're probably aware, in North Texas as it relates to immigration. You're familiar with the situation in Farmer's Branch, and that town has gotten a lot more attention, but this town, as it relates to 287(g), has gotten a lot of attention. Are you aware of that?

GUTIERREZ: Certainly.

ALONZO: And the other part I bring up is, here, you're trying to give help to this legislation by creating an opportunity for training, and this legislation doesn't do that, right?

GUTIERREZ: Well, I'll tell you that I, as you know, am not in agreement with the bill that's before us, which is **HB 12**, and that is very clear. And I don't think that there's any member of MALC or any person in the Democratic Caucus that

might agree with this particular piece of legislation. But my amendment says if we're going to have this type of legislation, then we should get the federal government to come down and help us do our work. Because—as I was talking to Representative Berman and we had our little private discussion here earlier—in Bexar County, when someone gets arrested and they don't have a license, they don't have insurance, they do get arrested, they get taken over to the jail, and they are asked where they're from and so on. And if there's a suspicion or an understanding that they're from Mexico, ICE has 24 or 48 hours to come down and extricate that person from the county's jail and put an ICE hold, as you know. And so this does happen, and so I have a concern with legislation such as this that is going to allow overzealous law enforcement officers to go out and fill our jails with more people that the federal government is not paying for, perhaps not performing their duties as they should under ICE standards. And so our police officers are not ICE officers. They're police officers. They're there to solve murders and drug problems and theft and things of that nature. So I think that my amendment would help in some way, at least help our cities pay for this stuff.

ALONZO: And Mr. Gutierrez, in the presentation, if you remember, by Chairman Solomons, he says that, you know, these folks, when they stop people, they're normally going to ask for their license and insurance. And I think that the deal is to come before these individuals. But do you know that there's no such law, there's no such law if no insurance? Are you aware of that?

GUTIERREZ: Well, in part, that's true. There's some ordinances in Bexar County, and unfortunately, in the city of San Antonio, it's a two-strike policy—if someone doesn't have a license and doesn't have insurance, they can be arrested, so certain cities do have municipal ordinances.

ALONZO: And the reason I bring this up, as far as for law—and just to follow up on the insurance, it's not against the law to have no insurance, it's against the law to have no proof of financial responsibility. And the reason I bring that up is people approach individuals, they might be breaking the law—even the police in implementing the law—but once they get arrested, then what? And I bring that because the reason you're trying to, at least with this legislation, is to provide some training, because even those, the ones that are trained, aren't even following the law.

GUTIERREZ: And sometimes, you know, there are sometimes bad lawyers, bad priests, bad police officers—we have to deal with the 90 percent good in the world and the 10 percent bad. And just because they've got a badge, or just because they're legislators, or just because they're doctors, or just because they're priests, doesn't mean that they're all good. It's incumbent on us to do everything in our power to make sure we give the right tools to people and don't let them profile, don't let them go out and do the wrong things that they're not supposed to do, not allow their over-zealousness to take over. And so at the very least, I think that ICE needs to come down and train my city. And also, really quite frankly, I'll have another amendment later to provide some funds if we're going to go out and do this type of stuff.

ALONZO: And the reason I bring this forward is because some people might think it's not that bad. But in our communities, this is the talk of the town. This is the big deal. The radio programs, the TV stations, the newspapers, everybody in the state—especially through the Spanish language media—this is it. This is the biggest thing going on here in Austin, and they're very concerned, and that's why we're bringing these amendments, and clearly and loudly speaking out against this legislation.

GUTIERREZ: You're right, colleague. I mean, at the end of the day, you know, I take offense to this. I'm a son of immigrants, as you are, as many others are in this room. And so, to the extent that when we have this kind of legislation come forward, I'm sorry if we get a little upset. I'm sorry that we feel like this is targeting our backs or targeting people in our community. That's the process, and ultimately it tears at our heart when our people are attacked in this nature. And so, you know, I think that what you're going to see for the rest of the evening is a lot of that emotion play out, and so I apologize in advance for our fervor and our zeal. But we've got to do everything we can to make sure that people in our Hispanic community—people that really comprise the history of our state. We've got to ensure that people in our state—because our state is different than Arizona and others. Our state is built on multiculturalism and diversity. My parents were immigrants. Representative Villarreal's father was an immigrant to this country. Ana Hernandez's parents were immigrants to this country. And the most important thing that I want to say here today is that because of that culture, and the other Hispanics in this room that perhaps their parents weren't immigrants, they were probably here longer than many of the other folks that are here in this room, and they take offense to having their folks targeted.

REPRESENTATIVE BURNAM: We all bring to this house floor different experiences. Yours is, you served on the San Antonio city council, and you're familiar with some of those budget issues, police departments, and that sort of thing.

GUTIERREZ: Absolutely.

BURNAM: And our colleague who just left this back mic, Roberto Alonzo, is from west Dallas County, and he may be more familiar on a personal level with the situation in Irving than a lot of people are. Are you familiar with the academic organization, the Chief Justice Earl Warren Institute on Race, Ethnicity, and Diversity?

GUTIERREZ: Well, colleague, I am on a very cursory level, but I know that you're going to let us know a little bit more about that.

BURNAM: Well, I thought you would be really interested to know that this summary report on racial profiling in the ICE Criminal Alien Program brings up in the first paragraph the problems with what was going on in Irving, Texas. In fact, the Warren Institute's analysis of arrest data pursuant to an ICE local partnership in Irving demonstrates that ICE is not following Congress' mandate to focus resources on the deportation of immigrants with serious criminal histories. Were you aware of that?

GUTIERREZ: No, I wasn't, but I understand that profiling is a big problem in our state.

BURNAM: And you are aware that the second paragraph goes on to say that this study also shows that immediately after Irving, Texas law enforcement had 24-hour access via telephone and video teleconference to ICE and the local jails, discretionary arrest of Hispanics for petty offenses, particularly minor traffic offenses, rose dramatically? Are you aware of that?

GUTIERREZ: I'm not aware, but I'm certainly not surprised.

BURNAM: Well, it's not surprising based on our personal life history experiences. We've all heard the term "driving black."

GUTIERREZ: Well, it's funny you mention that, colleague, because I was talking to some of my colleagues yesterday about "driving while black." Last session, there was a story on CNN, it was an hour-long documentary in Wayne Christian's county. The D.A. had gotten into some deal where they were pulling people over for simple driving offenses and somehow the county attorney got involved and they were using the asset forfeiture statute. She had protection, she never got indicted for this, and so the abuses that they put in the asset forfeiture—Representative Gallego, I know, will remember this story. It was a travesty what they were doing to mostly African Americans, pulling them over, taking them downtown, taking all their cash, taking jewelry. And so those are some of the things that happened. This is not some crazy, wild-eyed liberal view. This happens, unfortunately, to people of color in the State of Texas and throughout the country.

BURNAM: Have you heard the stories from our individual colleagues who are either African American or Hispanic who have had their own experience along these lines when they are a state elected official?

GUTIERREZ: Well, no, I haven't, but I know that, and I don't want to jump ahead of him, but I know in closing later this evening, we're going to hear from Representative Menendez and he's going to tell us a very poignant, telling story about what happened in his district.

BURNAM: I've heard three or four of those stories. So, I just want to call to your attention one of the reasons I think you have a good amendment. I think we have a really legitimate concern that this bill panders, has the unintended consequence of adding to the probability of colleagues in this house floor and certainly the majority of my constituents to be subjected to inappropriate and unnecessary racial profiling.

GUTIERREZ: Well, thank you, and I'm going to close now. Just in closing, let's just summarize what this is: this is an unfunded mandate. There are no sanctuary cities in the State of Texas. Congress has failed us. We have a Congress, in the United States Congress, that has lacked the particular fortitude to do what's right and have good immigration policy. They need to have good immigration policy. This is not our job to be wasting—we need to be worrying about kids, schools, higher education, hospitals, senior citizens. So I appreciate and I guess I can

understand this particular piece of legislation. But let's not let Congress use certain people in this house as puppets to do their bidding. I'd ask that you vote for this amendment and vote to not table because this is an unfunded mandate.

[Amendment No. 1 was tabled by Record No. 822.]

[Amendment No. 2 by Anchia was laid before the house.]

REPRESENTATIVE ANCHIA: Members, you've heard in some of the back and forth the tension that exists. There's a concern about the ability of chief law enforcement officers of a particular political subdivision being able to prioritize the activity that they want to interdict, the criminal activity that they want to interdict. So what my amendment says is that if the chief law enforcement officer of a governmental body, a political subdivision, determines that adoption of this law in a particular municipality inhibits their ability to have rapid 911 or emergency response times or inhibits their ability to deal with violent or drug-related crimes, or their ability to deal with things like human trafficking under Title 5 of the Penal Code, or sexual assault under Title 5 of the Penal Code, or the interdiction of a controlled substance under Chapter 41 of the Health and Safety Code, that they don't have to enforce this law. That they don't have to adopt this policy. And I'll tell you why, members, what people care about in the district that I represent is that if they call 911, that cops are going to show up and show up fast because they're worried about getting a house broken into or being assaulted. Or if there's a domestic violence problem, that's what the people in my district care about. And if this law has the affect of diminishing response times of police departments, then it's a bad law.

And I believe and I trust the chief law enforcement officers of the city of Dallas, or the sheriff of Dallas County, to know what priorities to place. And I'll give you concrete examples. We work very closely with the sheriff's office and DPD in Northwest Dallas. And the priorities there are the massage parlors and the prostitutions and the drug crime and sexual assaults. And if the chief law enforcement officer says, hey guys in the 44s and 45s, which is what we call that beat, I don't want you to dealing with pulling over undocumented immigrants. I don't want you to focus on taking them to jail. I want you to focus on the gang bangers and the drug dealers and the murderers. Those are the priorities I want you to be focusing on. This bill says, no, you can't place those priorities, because it would be the affect of a policy that you can't prioritize those most serious violent crimes and, in fact, there are penalties. And in the bill, it says if you go ahead and there's a pattern of behavior that you're not enforcing this law, then you lose state funds. And I'll look specifically at the language. I don't have it in front of me now. But there are consequences to not doing that. So I think this ties the hands of police chiefs, of sheriffs around the state, and I don't think that's our place. I'm not a police chief, and I'm not a police chief in your community and you're not a police chief in mine. So you have no idea what goes on in the 44s and 45s in District 103. And it is for that reason, members, that we shouldn't be tying the hands of law enforcement in our local communities by saying that they cannot prioritize and tell their officers, don't worry about undocumented immigration at this point because we have more pressing concerns right now like

murderers, like serial rapists, like drug dealers, like gang bangers. They can't do that under this bill, and I think that's a problem. So my amendment fixes that and I'd ask you, members, to vote in favor of this amendment.

REPRESENTATIVE LUCIO: Representative Anchia, I don't believe your amendment in any way works against the intent of Chairman Solomons' bill. It actually doesn't say that they shall not enforce immigration policy. All it says is that they're going to pass a bill—which I think eventually the intent is going to be questioned, and it could be read that we're making them enforce immigration policy, but that's not neither here nor there. Your bill doesn't say that they're going to adopt policy against immigration enforcement. All it says is if this were to exist, we want to make sure we give them the flexibility to say that 911 emergencies and investigation of serious crimes will take a forefront and a priority in their agency. Is that correct?

ANCHIA: Look, I'm not the police chief in San Antonio, or Brownsville, or Cameron County, or Bexar County. You know what? I trust those chief law enforcement officers to do their jobs. And frankly, if my wife tonight is at home and someone's trying to break down the door and she's calling 911 for the beat cops in our community, and they're busy taking a grandma who didn't have insurance downtown because she was undocumented, and they're not responding to my wife—that is a problem. I don't want those priorities. I want the priorities that they're going to come to my house fast.

LUCIO: Absolutely.

ANCHIA: Super fast.

LUCIO: Absolutely.

ANCHIA: Okay. And I know that's what everyone in this room wants. So that's why this amendment is so important. It doesn't tie the hands of chief law enforcement officers. It says, you know the community in Bexar County or Cameron County better than I do here on this house floor, and you know what the priorities of your law enforcement department is. Go ahead and execute and don't worry about state intervention or meddling or the tying of your hands.

LUCIO: And you know, Representative, I think there are probably several members on this floor that don't feel it necessary because they think of this as a simple bill. To be very specific about how we're going to enforce this, because that's what we have to be. As you know in your fourth session, now this is your fourth session, we repeatedly come back to work on the same policy matters because with we have to clarify things because once this legislation gets out in the real world and it's enforced, it's very different than the author's intent. So we're just trying to make this a better bill with this amendment, aren't we? And all we're saying is—you're not saying they can't enforce immigration policy, and I know you're going to vote against the bill, as am I. But we are saying if this bill passes, we are going to leave local control with those very knowledgeable about the crime element in their community to make certain priorities, like serious crime and 911 emergencies.

ANCHIA: Look, this is about 911. This is about the gang bangers that we want out of our community. This is about the murderers, the rapists, drug cartels. This is about letting local law enforcement deploy their resources and prioritize their resources in a way that makes our communities safer. And if we don't do this, we risk that 911 response time that is so precious to the people that live in the community that I represent being prolonged and being sacrificed. And I can't live with myself if something bad happens in the district I represent because we didn't let local law enforcement do their jobs.

LUCIO: I'll just make one more comment because my colleague behind me has a few questions. My next-door neighbor, who happens to be my brother-in-law, is a police officer. And I was asking him about this bill and just about law enforcement, in general. And the first thing he said is, "I can't imagine having another thing to look after when we are so undermanned fighting the violence along the border."

ANCHIA: Look, the bottom line is, we all know Representative Menendez, as a former city council person, we know what's happening in the trenches, in police departments around this state. Cuts are happening. Whether it's V-tops or administrative personnel, cuts are happening in our cities. We're now telling chief law enforcement officers of these communities that they can't prioritize with limited resources, and that's just wrong.

REPRESENTATIVE MENENDEZ: Your amendment goes to the crux of the debate we had in committee. At one point, Representative Turner stated in a question to Representative Solomons, does this mean that our police chiefs will no longer be able to run their departments? And the response was, well, as long as they don't ask them to interfere with their right to ask migratory status. So then I followed up, and would it surprise you to know that the question I posed was if a police officer chose to detain someone for a traffic violation, could they detain them and hold them as long as they wanted to, even if the chief would've liked them to go somewhere else? And the answer is still yes, because the chief can't institute a policy that would interfere with their right to investigate their migratory status.

ANCHIA: Look, I agree with you. The chiefs have a tough enough time already. And the chief in the 44s and 45s, which is Northwest Dallas, tells the cops, guys, I want you to shut down the massage parlors because they're trafficking young women from Latin America and Asia and using them as sex slaves. Don't worry about anything else. That is the only thing I want you to worry about. That could be construed as setting a policy that ignores immigration law, and that's just wrong. And then it gives people standing, the ability to complaint against my chief of police for trying to help the people of Northwest Dallas, because they can say now that he's not doing his job because he's prioritized. He's telling the guys, don't worry about enforcing immigration law, that's the federal government's job. You guys need to deal with the human trafficking that happens every day and the sex slavery that happens every day in Northwest Dallas.

MENENDEZ: So if we vote against your amendment, the message we're sending to our police chiefs is, we know more about how to run your departments than you do? Let us decide because it's more important for you to let your officers ask about someone's legal and migratory status than it is for you to run your department?

ANCHIA: I don't live in Bexar County. I don't live in Abilene. I don't live in Euless, in El Paso. Nor am I a law enforcement officer. It is my job to trust the prioritization of police chiefs and sheriffs around this state to deploy resources in a way that they think is most effective to make our communities safe. This bill handcuffs them. By adopting this amendment, we can fix that problem, and that's why I would urge you to adopt this amendment.

SOLOMONS: I appreciate the comments made by Representative Anchia, and I'm sure he's walking back there to grill me on his amendment. But let me just tell you what I do think it does. The bill itself doesn't change how a police officer will do his or her job on the street. It just prohibits cities, or sanctuary cities, counties, sheriffs, chiefs of police, or anybody from prohibiting them from having a policy that says you don't enforce the law. This amendment lets the chiefs basically decide on what laws they're going to go ahead and enforce. And quite frankly, I think, although Mr. Anchia is very—

ANCHIA: Smart?

SOLOMONS: I don't want to say smart, but he is—

ANCHIA: Articulate? Well dressed?

SOLOMONS: He is well dressed, for sure. But he is making an argument that is going to gut this bill. This amendment guts the bill. This allows any chief, one person, to basically say we really don't have to abide by state law because I can find all kinds of loop holes where we can just continue business as usual. So with that, I want to say that I think all of the laws that we have on the books ought to be enforced. But this bill doesn't require the chief or anybody else to prioritize or do anything differently than what they're doing today. All it does is prohibit them from having a standing order of some sort that says I'm going to tell you what laws you basically enforce and what laws you don't. And as far as it comes to immigration policy, I don't want you to enforce it because I can come up with all kind of reasons not to enforce and help us enforce our immigration laws in this country and in the state. So I believe the amendment guts the bill, and I'm going to move to table.

ANCHIA: Burt, thanks for saying all those nice things about me. I wanted to ask you just a couple of questions. How do you define policy?

SOLOMONS: How do I define a policy?

ANCHIA: What does policy mean?

SOLOMONS: Well, policies are policies. Basically, they are orders, generally. In your case, in this amendment, a chief will have an order or some sort of memo, it's order number or policy number whatever, or whatever it is that says here's what I want you to do or not do.

ANCHIA: Could it be orders? Just verbal orders to—

SOLOMONS: It could be verbal orders. It could be written orders. Most of the time police departments like to, especially use a lot of paper now. You know, they like to document everything. So I assume for the most part, it's going to be written orders.

ANCHIA: You said all the laws should be enforced, and I tend to agree with you there, but should chief law enforcement officers be required to distribute resources equally to enforce all the laws? Or do you think chief law enforcement officers should be able to prioritize resources because of the limited resources that they have?

SOLOMONS: I think that they generally tend to look at what crimes are going on in their communities. For example, burglaries. They will spend a lot of time and ask officers to patrol certain areas, go through that process because they know certain things are happening in their communities.

ANCHIA: So you would agree with me, then, that they can prioritize serial rapists, you would prioritize resources there if here's a serial murderer. You have a cartel that's operating and distributing drugs in your community, you would prioritize resources there, correct? If you're a chief law enforcement officer?

SOLOMONS: You want to say "prioritize." I think what, basically, chiefs of police generally do—and communities generally do ask—is when they know they have a particular problem somewhere, they actually pay attention to that area and try to ensure that they are bringing it back under control.

ANCHIA: Right, so that people are safe, right? That's the goal, you want to make people safe.

SOLOMONS: The goal of following the law, and the reason we have police departments is to keep people safe. That's right.

ANCHIA: Okay, so we are in agreement there.

SOLOMONS: Yeah.

ANCHIA: So, with limited resources, when chief law enforcement officers try to keep people safe, they have to prioritize those limited resources, don't they?

SOLOMONS: I'm sorry, what?

ANCHIA: If you have limited resources, you prioritize where you allocate those resources, right?

SOLOMONS: Well, just like we're trying to do in the budget, you have to sort of decide where to spend your money. That's right.

ANCHIA: Okay. So we're in agreement—

SOLOMONS: This bill doesn't affect that. This bill does nothing of that sort. What you're trying to do with your amendment, cleverly—that's the word I was looking for, cleverly—trying to ensure that somehow the police departments of this state can ignore whatever bill we pass.

ANCHIA: No. I think I stated clearly in my layout that this is about priorities. And you agree with me that we both want public safety in our communities. You also agree with me that with limited funding, chief law enforcement officers have to direct and prioritize those resources to interdict crime on an unequal level, right? That happens? Now, what your bill says, if a police chief provides an order, which you agree with me is a policy, that says we are not going to worry about detaining undocumented grandmothers who don't have licenses, that instead, we are going to deal with serial rapists, or murderers, or drug dealers. That creates a policy, and if they do it on a regular basis, a pattern of adopting a policy that would cause them to fall underneath this bill, would it not?

SOLOMONS: I think if a police chief were to say and issue an order that says we're not going to go ahead and deal with immigration matters of any sort, don't arrest anybody if they're here legally or not, because we've got a serial killer over there, I think that would be a violation of this bill. What you're trying to do is not have policies in place that basically interfere with the enforcement of the commissioned police officer's discretion. You know as well as I do that what happens on the street is that police officers are going to make determinations based on when they're investigating any kind of criminal offense. What you're trying to do, cleverly with your amendment, is say somehow that by prioritizing, it will not be a violation. And the question is, really, what kind of prioritization are you talking about? Are you telling them not to enforce the laws and just pick and choose which ones you want to go after? You want police chiefs to be able to say we're not going to worry about all the other safety and criminal laws in the community, including illegal immigration, because we're just going concentrate on burglaries this week.

ANCHIA: That's exactly right.

SOLOMONS: And what you're going to try to do is gut the bill.

ANCHIA: I think the exchange with Representative Solomons—I think I got a great witness there, because what he says is we'd rather have people dealing with the undocumented grandmother that doesn't have a license. We want to spend resources there instead of dealing with burglary. Well, I tell you, if my house is broken into tonight, ladies and gentlemen, with my wife and kids home, and they call the cops and for some reason, the local beat cops are out trying to deal with somebody who didn't have a license or didn't have insurance and they arrive at my house when it's too late—that's a problem. That's a huge problem. And Burt just said it, that's right. He would rather have our local law enforcement officer deal with the immigrant grandmother who doesn't have a license than with burglaries in my neighborhood, and I think that's wrong. I think my constituents, republican or democrat, would think that wrong. Because when somebody's trying to break down your back door, you want the cops to come and you want

them to come ASAP. You want to call 911 and you want response. Instead, Burt says it's a policy, whether it's an oral policy or a written policy, he calls it a policy when a chief directs his law enforcement officers to deal with priorities—rape, burglaries, violent crime, drug crime, human trafficking—the stuff that we all pass bills on here and abhor. We hate it. We want to stop it. But at the same time, by adopting this bill, we're going to tie the hands of our police chiefs. Burt said it very clearly up here. Yes, that is a policy. Yes, I don't want them dealing with burglary and instead, I want them to deal with the undocumented grandma. He said it right here and now and I think that's wrong. I think this is bad policy. I think we need to adopt this amendment and we need to get on with the business of this state.

[Amendment No. 2 was tabled by Record No. 823.]

[Amendment No. 3 by Martinez Fischer was laid before the house.]

MARTINEZ FISCHER: This is an argument that is an expansion of Representative Anchia. I can understand Chairman Solomons' point about having chief law enforcement officers making arbitrary calls on the statewide law and all the effects of that. I understand maybe his philosophy has to do with, perhaps, they're law enforcement officers, they follow orders they don't set policy. Policy makers set the policy. Law enforcement carries out that policy, and I'm not going to speak for him, but maybe that's what he's thinking. But I do know, regardless of his position on that, I know how he feels about unfunded mandates. I know how this body feels about unfunded mandates, and just a quick review of the TLIS, I think we have enough support on unfunded mandates to override the governor if we wanted to. That's how many people believe that we should not be passing policies. And, in fact, it's not just policies. My friend says that any law enacted by the legislature on or after January 1st, 2012, that requires a local government to establish, expand, or modify a duty or activity that requires the expenditure of revenue by local government, is not effective unless the legislature appropriates or otherwise provides. And I believe that that is done in good faith with the intent to make sure that our local governments are not handcuffed with the fiscal restraint that we put on them sometimes, especially during times when we're making cuts and passing obligations and responsibilities down to the local government level.

So if we're not going to let the chiefs of police, we're not going to let the constables, the sheriffs, the local law enforcement, chief law enforcement officers, if we're not going to let them set policy, I agree with that. But we should let our local governmental entities set policy because they do that. That's why they get elected to city council. This chamber is fortunate enough to be blessed with a number of members that served in the city council, and know how hard people work to make these policy decisions, know how close they are to the constituents on the ground that they represent, and understand their needs and desires and their wants and understand their priorities, and what we should be doing with those priorities with limited dollars and expanding responsibilities. I also know we're very fortunate to have county commissioners serve in this body, including a good friend of mine from Bexar County that spent all of his years

maturing on that counsel, and now he's come to the legislature to tell counties what to do. And I believe when he was sitting on that commissioners dias he would be disturbed to know that once again in Austin, Texas, we're telling people what to do locally, we're not telling them how to pay for it, and we're not telling them that we have a pathway to help them out of a jam. And I recall Commissioner Larson, Representative Larson, we used to write each other, back and forth. I never met him, but we would send letters back and forth about transportation, toll roads, and the state's need to belly up and pay for these roads and not put the obligation on local citizens. And so I know where he is on this issue. I know how he feels. This is very sensible.

This amendment says that if a super-majority of a local governmental body, whether it be a council or commissioner's court—if they decide that they want to opt out of the application of this section, and they can justify it however we want, however they want, and we will have to take their word as fellow electives, and perhaps it has to do with the language in **HJR 56**. Maybe it's these words that spark that action. But if three-fourths, a very high bar, you know how hard it is to get three-fourth's vote in this chamber, we have three-fourth's vote in the number of responses to **HJR 56**. And so we have to really believe what we say. We have to walk the walk, not just talk the talk. And this says that if three-fourths of the members of the governing body, my resolution says—

ALVARADO: Representative Martinez Fischer, why do you think it's important that the local governing body should have the right to vote on this?

MARTINEZ FISCHER: Well, A, I think it's local control. B, I think local governments set policy. And C, I think that we have a conflict and a challenge sometimes of letting our local governments do what's best for the local communities.

ALVARADO: I couldn't agree with you more, because this is going to impact their budget. In my previous questions and statements, I was talking about, for example, the City of Houston. I asked their police department, because they are the ones that would have to implement this, how many new people would they have to hire? Fifty-eight new personnel. I didn't make this up. This came from the Houston Police Department, and they broke it down. Twenty-two local officers, designated to perform immigration functions. Thirty-three for guards and additional prisoner beds. There is a lot more at stake than just what some people have said this is a simple bill. It is not, because it impacts their budget. We are taking away their authority, completely stripping it away. And also, the training that has to be in place for two weeks. My desk mate said that he didn't believe how a police department would take two weeks to train officers. And that's because immigration law is very complicated. Our police department says that they would need two weeks to do this. They would have to pull police officers off the street, teach them the complex immigration laws, civil violations, criminal violations. You know coming from a city the size of San Antonio, now 7th, 6th largest in the state. Your department is already understaffed, is that correct?

MARTINEZ FISCHER: That's correct. And let me just tell you the irony, and dare I speak for Chairman Gallego, but I submit he probably has the busiest committee in the house. It's the largest number of bills filed and referred to that committee. And everybody in this chamber talks a big talk about being tough on crime. And for some reason when we pass crime bills in our community we trust law enforcement to go out and catch the bad person. We let them do their job. We don't tell them how to do it, we just tell them it's a crime to do it, and we trust that they do it. And all of the sudden when it comes to this, we have to tell people how to do it, to the point that we're going to take money away from you. I think that that is hypocritical, I think it's disrespectful, and I think it's really a sad commentary on how we feel about our local governmental counterparts. And I think it's something that we really need to reckon with, because if it's good enough for all of us to file crime bills and have them enforced locally, then we should give that discretion, that respect, and rely on that experience, deferring to our law enforcement officers, and our local policy makers, to set those enforcement priorities. Because I'll tell you what, crime problems in Harris County may not be the same in Bexar County, and so on and so forth. Big city crime is not like little city crime.

And why are we now going to make this a number one priority, and it will be a number one priority because we're taking your money. And when we're going to be boosting you, when we're shoplifting that money out of your pocket, you will make this a priority and forget about your local protocol. Forget about what matters to rural Texas. This may not be a problem in rural Texas. I'll tell you what, it will become a problem, because you're going to be fearful. Your county judge is going to be worried about losing money. Your mayor is going to be worried about losing money. Your school district is going to be worried about losing money. And so all of a sudden your issues aren't as important because we have to do this. But yet, we know how we feel.

BURMAN: Representative Martinez Fischer, we've been talking about unfunded mandates. Are you aware that both my county and my city gave most specific directions that their highest legislative priority this session was not to accomplish good things, but to avoid unfunded mandates?

MARTINEZ FISCHER: I did not know that, but I'm not surprised. I know why.

BURNAM: Did you hear Representative Gonzales when she reported that our mayor, the city of Fort Worth, wrote a letter specifically in opposition to this bill because of the unfunded mandate aspect of it?

MARTINEZ FISCHER: I didn't know that, but I know this: The biggest compliment and the biggest seal of approval any member can get from this body is to pass a law and know that it's going to be carried out and know that it's going to be so good that there's no reason not to apply it in your community. And if Chairman Solomons' bill is so good and so fair and so reasonable and it conforms to everybody's unique characteristics of your district, your county, your city, nobody's going to opt out. Don't worry. Nobody will opt out. But we're going to be gone for 18 months after we get out of session and we ought to provide some relief, just in the event that this law seems to run into the head water, or the head

winds, of a local governmental desire and it defeats the priority, because your small town may not have the law enforcement resources that my town has. And so what happens then? What happens to your response time?

SOLOMONS: Let me just remind you what the bill does, and it just creates a uniform standard on how local law enforcement will work with federal immigration enforcement departments. We pass bills. We pass laws here regularly. Criminal laws, other laws that are state-wide in body, state-wide effect. And this amendment is unacceptable. It would really allow the local governments to opt out of what we're trying to accomplish with the bill, to have some uniform consistent standard in how we deal with this issue. And allow that process to work itself out for the city, counties, other governmental entities to resolve these issues once and for all. So I'm going to move—we might as well not pass—well, maybe we shouldn't pass a lot of state laws, but at the end of the day, whenever we pass laws, are we going to allow local government to just opt out of whatever they feel like they don't want to use, because of the fact they say we don't like this criminal law, we don't like that law. Let's just have an election and decide if we don't want to follow these laws. That's not what we do here. That's not what the people of Texas asked us to come here to do. And I think the people of Texas basically asked us to come here and put this issue to bed, once and for all, and try to come up with a process, and I would move to table this amendment.

BURNAM: I just wanted to follow up on my questioning with Representative Martinez Fischer, that information I received—are you aware that the Fort Worth police department has already calculated the expenses—

SOLOMONS: You may have to speak up for me.

BURNAM: Are you aware that the city of Fort Worth Police Department has already calculated anticipated expenses to address this bill in the event that it's implemented? And they say that it will cost them \$300,000 a year to hire seven more people in communications to handle the various verification and status inquiries that they anticipate, and that's the reason that the mayor has sent a letter in opposition to the bill, and is in complete conflict with the city's first priority for this legislative session?

SOLOMONS: I'm not aware that's how much they calculated or on what basis, but I will say that I think that that may be an overreaction. And I am very respectful of your mayor.

BURNAM: Thank you.

MARTINEZ FISCHER: I have three words—come on, Burt. Come on, Burt. Those are my three words. Come on, Burt. Are you kidding me? That's the reason why we're not going to take this amendment, because we got to be uniform around here and we might as well not pass laws because people get to pick and choose? People got to pick and choose you and some opted out. And that's just how it works. But I tell you what, members, we're going to take this vote, but I will also tell you that I was working on an amendment to the amendment, the chairman didn't want to give me the opportunity to present, but

I'll lay it out anyway because I get to close. The amendment to the amendment says, guess what local governments? Burt is right. You don't have to opt out. In fact, you can't opt out. If your reason for opting out is financial, then you don't have to opt out as long as the state will pick up the tab and give you a pass. I think that's good public policy. Maybe you do too, if you believe the words behind the author of **HJR 56**, phenomenal public policy. Only chance you might be able to pass **HJR 56**, because it's been sitting in calendar how long? A long time. So, in essence, if you want to duck out on **HJR 56**, then we'll just have to take this vote on motion to table. But I think the argument is very serious and the policy is sound. Why should we put the law enforcement priorities of Pecos, Texas, to be uniform with the largest city in America like Houston? Does it make any sense? Do they even have the personnel? Do they even have the resources? Do they even have the 911 capabilities in Pecos, Texas, as Houston has? That's the reality.

OLIVEIRA: Mr. Martinez Fischer, what is **HJR 56** that you're referring to?

MARTINEZ FISCHER: It's a house joint resolution. A constitutional amendment that was authored by Chairman Burt Solomons, Chairman Callegari, Representative King of Taylor, and Lois Kolkhorst, and probably about 100-plus other members, probably myself, I'm sure I signed onto it, that says we're going to tell the people of the State of Texas, you get an opt out. You can vote.

OLIVEIRA: What it says is that there will be no unfunded mandates in the State of Texas and that amendment that you're proposing, or that he is proposing, has been sitting in calendars and hasn't come out? Is that what you're telling us?

MARTINEZ FISCHER: That's what I'm telling you, yes, sir.

OLIVEIRA: And so now, the bill that we're looking at, based on information we're getting from police chiefs, cities, sheriffs, counties, cities, MUDs, whatever, hospital districts, because they're all governmental entities under this bill and they're all going to be able to enforce immigration law. But now in this bill, we're going to have the biggest unfunded mandate of the session; isn't that right?

MARTINEZ FISCHER: Biggest unfunded mandate. The largest increase in Spanish classes across the state.

OLIVEIRA: And when you're talking about telling local police and local sheriffs how to do their business, regardless of what crisis may exist, regardless of what situation, we are now deciding from the mountain top of Olympus that this is the most important thing to be doing?

MARTINEZ FISCHER: And I sympathize with that. I don't understand the rationale on that.

OLIVEIRA: I also agree with your amendment, and I don't understand why we can't let the one, I thought, fundamental principal of most of us on this floor, that there would be no unfunded mandate and that we believe in local control, why we won't let that happen.

MARTINEZ FISCHER: Thank you, Chairman, and with that, again, it's a simple notion. If the bill is as good as it's been told up here, it will never come into play. It's just poetry. It's just a few extra lines in the Vernon's Code and it's better to be safe than sorry. I ask you, let's keep this discussion alive. Let's take a stand for unfunded mandates. Let's take a stand for respect in deference to our local governments and our local elected official counterparts. And let's take a stand for the citizens that we represent, and understand that sometimes we don't have all the answers and sometimes it's better to get those answers addressed at the local level so that we can custom tailor these issues to fit the needs and desires and the priorities of our respective local governments. And with that I ask you to please vote no on the motion table.

[Amendment No. 3 was tabled by Record No. 824]

[Amendment No. 4 by Farrar was laid before the house.]

REPRESENTATIVE GALLEGOS: Members, I'd like to lower the rhetoric a little bit with respect to this amendment. Those of you who know me and have been in criminal jurisprudence know that I really try to defer very much, whether I agree with you or whether I disagree with you, I try to work with you to make sure that in the end we try to go, Mr. Fletcher, or Ms. Riddle, or Mr. Aliseda, or anyone who worked with me. It's really a question of professional courtesy and respect. And deferring to the people who elected us because each of us who comes to this chamber comes with the blessing of the 160,000 or so people that we represent.

What this amendment seeks to do is to give that same kind of professional courtesy or that same kind of deference to a local sheriff, because I've heard from a significant number of the sheriffs, not only in the district that I represent, but frankly, because I've had the opportunity to chair criminal jurisprudence, and I've had the opportunity to get to know numerous sheriffs across Texas. Many of them have called me about this particular legislation. And what the amendment seeks to do is essentially give those sheriffs a little bit of discretion because they, too, are elected and they, too, know how to handle their own office. If you look at Brewster County, for example, in far West Texas, which is the single biggest county in the state. It's also one of the poorest. And so you have, at any given time, maybe two deputies covering a county that is larger than many states. And at a time when budget constraints are concerning everyone across the board, not only here in Austin, but at home, as well, I want you to know that those sheriffs are having to make tough decisions. And so when you fill county jails with people who are really non-offending, in terms of the Texas Penal Code anyway, they're non-offending individuals, then you create significant problems at home. So this amendment would strike the word county in several instances, and it would strike the reference to the sheriffs in another instance, and the county attorney so that those county officials would have the professional courtesy, the deference. Because they're elected, they would have the ability to deal with things in their own way and in their own manner.

One of the challenges of legislation is many times it doesn't take into account the importance of the judgment of the folks up in front. We often complain about D.C., and how far away D.C. is, and how they don't relate to

what we're doing. Well, ladies and gentlemen, I will tell you that in this legislation it looks like we don't relate well. We don't understand well what the local law enforcement is doing. So here's my attempt to help the sheriffs. Here's my attempt to help the counties and to have some professional courtesy. To have some mutual respect. To have some understanding for, and some deference to, folks who are locally elected and to allow them to set their own priorities and determine who's going to be in their own county jails. And make sure that as the chief law enforcement officer of that county that sheriff has the discretion. Remember that word, discretion, because we always argue that we want to give judges discretion and we always want to save the discretion of the legislature, the prerogative of the legislature. Let's have that same courtesy and respect for the local sheriff who also needs that discretion, who also needs that latitude to make decisions on a local level. Since no one is listening, I think it's acceptable to the author.

SOLOMONS: I appreciate the chairman's remarks, however, I think the amendment does remove the application of the bill, the counties, sheriffs, municipal police departments, and the municipal attorneys. It goes against the spirit of the bill and what we're trying to accomplish here. The bill is intended to have a statewide policy standard on law enforcement enforcing all the laws of this country and this state. And I would move to table.

GALLEGO: I will tell you, it doesn't make a lot of sense to me to make a rule for Fort Worth with a population of, I don't know, a lot of people, and apply it in Fort Davis with a population of 2,000 people. It doesn't make a lot of sense because Texas is such a huge state and such a diverse state. And so in this instance what we're doing doesn't make a lot of sense. And it overrides that discretion that we so often protect for local officials at home. And frankly, the other issue—I don't know how many times I've sat in this chamber and listened to remarks about the importance of local control. Can you all relate to that? Have you all heard members come here and talk about local control? Well, the truth is that that sheriff out there deserves a little local control. That county out there deserves a little local control, a little deference for their professional judgment, a little respect for the work and the effort that they do, and certainly a little bit of understanding for the financial straits that they find themselves in just the way that we find ourselves in. When a county is financially on the edge we don't kick them over. The canyons of Big Bend are huge, and to try to push county government over the edge of that canyon, into the river, is really bad public policy. And that's essentially what we're doing to sheriffs, not only in Brewster County, but in 253 other counties across the state.

The amendment changes really a couple of words, but it shows respect. It shows mutual respect and cooperation for working with your local county and your local law enforcement authority. Again, the sheriff is supposed to be the chief law enforcement official of a county, and now you're telling him that he or she works for someone else. They don't work for the people of that county anymore. In essence, they find themselves working for their U.S. Government. Do we really want to do that? Do we really want to make our sheriffs, rather than work with their local towns club on their local priorities, on their local issues? Do

we want in a very real way to just essentially circumvent the desires of the local population and the needs of local law enforcement in order to subjectively insert our own sense of priority? And I would think if you look at it from a public policy perspective, limited government, local control—this amendment makes perfect sense. If you look at it from some of those core values that so many of us often talk about and so many of us really want to see implemented in law, this amendment makes perfect sense. And even if you look at it from a law enforcement perspective, this amendment makes perfect sense. I appreciate Mr. Solomons in his argument that we should make one rule across the board for everybody and we should have it consistent—and that's great where it makes sense. But it doesn't make sense here. You can't put a square peg into a round hole as Mr. Solomons seeks to do. So I would ask you, respectfully, to vote no on the motion table and to make sure that your chief law enforcement official in your county has the tools, has the cooperation, and has the respect of the Texas House of Representatives, and I'd ask you to vote no on the motion to table.

[Amendment No. 4 was tabled by Record No. 825.]

MARTINEZ FISCHER: I am checking on the status of the explanation on my point of order that was ruled about two hours ago. Is there an explanation available?

CHAIR (Geren in the chair): Hang on a second. It's still being worked on. Would you like to hear what we have so far?

MARTINEZ FISCHER: No, sir, but I wouldn't mind a brief summary from where we've gone this far with respect to Rule 4. Just to make sure that I'm thinking clearly, is it the chair's ruling in the first Rule 4 witness affirmation form that a witness is not required under the rules, in following the Craddick precedent of '03, to give their telephone number? The chair overruled the point of order indicating that a witness no longer has to, even though the witness affirmation form requires them to.

CHAIR: Mr. Martinez Fischer, I think that was very well explained to you earlier, but if you'd like to come up, I can share with you what we have right now.

MARTINEZ FISCHER: Well, the rules apply to the body and not just me, and so I'd be more than delighted to go up there and talk to the parliamentarian. I think the body should be aware of the rules.

CHAIR: And when it's completed, we will share it with the body.

MARTINEZ FISCHER: Well, Mr. Speaker, I'm sorry, parliamentary inquiry. That ruling was already read by the chair, it had already been disposed of and I was just trying to re-familiarize myself with the chair's ruling.

CHAIR: Copies of that are available from the journal clerk, Mr. Martinez Fischer, but if you'd like we'll read it again.

MARTINEZ FISCHER: Well, that's the option of the chair. Just a simple affirmation or to say that that's not the ruling is enough for me.

CHAIR: The chair's ruling was that the witness affirmation form applied to the rules, complies with the rules.

MARTINEZ FISCHER: Pursuant to the Craddick precedent of 2003 with respect to phone numbers?

CHAIR: That's correct.

MARTINEZ FISCHER: Thank you. And so far we know, although it's not been fully disposed of, we know that the second point of order dealing with a witness' obligation to identify their employment or profession, as required by the form and as stated in the rule, that under some level of reasoning these witnesses don't have to do that either, in a manner to be determined once we get the official ruling? It's safe to say at this point—

CHAIR: The second point of order, the witness affirmation form complied with the rule and that was the basis for overruling the point.

MARTINEZ FISCHER: And so doing, it came to be inconsequential for sustaining a point of order as to whether or not employment or employment information is required for a witness who chooses to testify in their individual capacity?

CHAIR: The chair ruled that the witness affirmation form complied with the rule.

MARTINEZ FISCHER: Thank you, sir. And, Mr. Speaker, parliamentary inquiry?

CHAIR: State your inquiry.

MARTINEZ FISCHER: Looking through the rule book, and I'm trying to look for rules that allow members of the committee to fill in witness affirmation forms. And if the chair can enlighten me as to what section of the rule that is, because I can't seem to find a whole lot.

CHAIR: It's noted on the witness form, it's signed by the committee chair or the acting committee chair.

MARTINEZ FISCHER: Are there any rules of the house that give the committee chair or any member of the committee to dictate anything on a witness affirmation form other than a signature? Maybe dictate is a poor choice of words, but—I'll restate the inquiry. Mr. Speaker, is there any rule other than the signing of the committee report, is there any rule that allows for a committee chair or any other member to fill in a witness affirmation form?

CHAIR: There is not a rule, but the committee chair, or acting committee chair, can fill in the appropriate blank if the witness agrees to that.

MARTINEZ FISCHER: Does that rule, while you said it's not a rule, I guess does that precedent allow a committee chairman to direct the testimony of a witness?

CHAIR: I'm having trouble understanding what you mean by direct the testimony.

MARTINEZ FISCHER: Does the committee chair have the discretion or the authority to indicate, absent the express declaration of the affiant, or the witness, on how that witness should testify on a measure? Being on, for, or against, or neutral.

CHAIR: The committee chair can fill that in if it's agreed to by the witness.

MARTINEZ FISCHER: What constitutes an agreement by the witness?

CHAIR: Yes.

MARTINEZ FISCHER: I'm sorry?

CHAIR: Yes, no.

MARTINEZ FISCHER: Okay. Mr. Speaker?

CHAIR: Mr. Martinez Fischer?

MARTINEZ FISCHER: I'd like to raise a point of order in consideration of this bill under Rule 4, Section 20(a)(5).

[The point of order was sustained, and **CSHB 12** was returned to the Committee on State Affairs.]

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